~~Indicates Matter Stricken~~

Indicates New Matter

AMENDED

May 7, 2019

**H. 4244**

Introduced by Rep. Sandifer

S. Printed 5/7/19--S.

Read the first time April 3, 2019.

**A** **BILL**

TO AMEND SECTION 38‑78‑20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS APPLICABLE TO SERVICE CONTRACTS, SO AS TO EXPAND THE DEFINITION OF “SERVICE CONTRACT” AND “WARRANTY” AND TO DEFINE THE TERMS “ROAD HAZARD”, “THEFT PROTECTION PROGRAM”, AND “THEFT PROTECTION PROGRAM WARRANTY”; TO AMEND SECTION 38‑78‑30, RELATING TO SERVICE CONTRACT REQUIREMENTS, SO AS TO EXCLUDE A SERVICE CONTRACT PROVIDER THAT INSURES THEIR OBLIGATIONS UNDER A REIMBURSEMENT INSURANCE POLICY FROM THE FINANCIAL STATEMENT REQUIREMENT FOR REGISTRATION WITH THE DIRECTOR OF THE DEPARTMENT OF INSURANCE; AND TO AMEND SECTION 38‑78‑50, RELATING TO REQUIRED PROVISIONS IN SERVICE CONTRACTS, SO AS TO REQUIRE A CERTAIN DISCLOSURE.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 38‑78‑20(12), (13), and (14) of the 1976 Code is amended to read:

“(12) ‘Service contract’ means a contract or agreement for a separately stated consideration for a specific duration to perform the repair, replacement, or maintenance of property or indemnification for repair, replacement, or maintenance, for the operational or structural failure due to a defect in materials, workmanship, or normal wear and tear, with or without additional provisions for incidental payment of indemnity under limited circumstances including, but not limited to, towing, rental, and emergency road service. Service contracts may provide for the repair, replacement, or maintenance of property for damage resulting from power surges and accidental damage from handling. ‘Service contract’ includes a contract or agreement for a separately stated consideration for a specific duration to perform one or more of the following services:

(a) the repair or replacement of tires and wheels on a motor vehicle damaged as a result of coming into contact with road hazards;

(b) the removal of dents, dings, or creases on a motor vehicle that can be repaired using the process of paintless dent removal without affecting the existing paint finish and without sanding, bonding, painting, or replacing a vehicle body panel;

(c) the replacement of a motor vehicle key or key fob in the event that the key or key fob becomes inoperable, lost, or stolen; and

(d) other services consistent with the provisions of this chapter approved by the director.

(13) ‘Road hazard’ means a hazard that is encountered while driving a motor vehicle including, but not limited to, potholes, rocks, wood debris, metal parts, glass, plastic, curbs, or composite scraps.

(14) ‘Service contract holder’ or ‘contract holder’ means a person who is the purchaser or holder of a service contract.

(15) ‘Theft protection program’ means a device or system installed on or applied to a motor vehicle designed to prevent loss or damage to a motor vehicle from theft that includes a theft protection program warranty. The term ‘theft protection program’ includes, but is not limited to, alarm systems, body‑part marking products, steering locks, window etch products, pedal and ignition locks, fuel and ignition kill switches, and electronic, radio, and satellite tracking devices.

(16) ‘Theft protection program warranty’ means a written agreement by a warrantor that provides the warrantor will pay to or on behalf of the warranty holder specified incidental costs not to exceed five thousand dollars as a result of the failure of the theft protection program to prevent loss or damage to a motor vehicle pursuant to the terms of the warranty. Specified incidental costs include expenses specified in the warranty that are incurred by the warranty holder due to the failure of the program to perform as provided in the warranty. Incidental costs include, without limitation, insurance policy deductibles, rental vehicle charges, the difference between the actual value of the stolen vehicle at the time of theft and the cost of a replacement vehicle, sales taxes, registration fees, transaction fees, and mechanical inspection fees. Incidental costs may be reimbursed in a fixed amount specified in the warranty or by use of a formula itemizing specific costs incurred by the warranty holder. A theft protection program warranty must contain a conspicuous disclosure substantially similar to the following in ten‑point bold font: ‘This warranty is not insurance and payments or reimbursement under this warranty may not exceed five thousand dollars.’

~~(14)~~(17) ‘Warranty’ means a warranty made solely by the manufacturer, importer, or seller of property or services without charge, that is not negotiated or separated from the sale of the product, that is incidental to the sale of the product, and that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor, or other remedial measures, such as repair or replacement of the property or repetition of services. This term includes theft protection program warranties if the warrantor has obtained a reimbursement insurance policy to insure its warranty obligations in this State.”

SECTION 2. Section 38‑78‑30(E) of the 1976 Code is amended to read:

“(E) Except for the requirements specified in subsection (D), no other financial security requirements shall be required by the director for service contract providers. Service contract providers that establish their financial security to pay claims by insuring their obligations under a reimbursement insurance policy as provided in subsection (D)(1) are not required to file financial statements in connection with an application for registration or the renewal of a registration.”

SECTION 3. Section 38‑78‑50 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

“( ) Service contracts must include a disclosure substantially similar to the following: ‘In the event of a dispute with the provider of this contract, you may contact the South Carolina Department of Insurance, Capitol Center, 1201 Main Street, Ste. 1000, Columbia, South Carolina 29201 or by phone at (800) 768‑3467’.”

SECTION 4. Section 1-3-210 of the 1976 Code is amended to read:

“Section 1-3-210. (A)(1) ~~During the recess of the Senate, vacancy which occurs in an~~ If an office filled by an appointment of the Governor with the advice and consent of the Senate becomes vacant during the interim period between regular legislative sessions, then the office may be filled by an interim appointment of the Governor only if the Governor acts to fill the office during the same interim period during which the office became vacant. The Governor must report the interim appointment to the Senate and must forward a formal appointment at its next ensuing regular session. If the Senate votes to reject an interim appointee’s formal appointment during the next ensuing regular session then the office is immediately vacant and may not be filled by another interim appointment.

(2) If the Senate does not advise and consent ~~thereto~~ to the formal appointment prior to ~~sine die adjournment~~ the second Thursday in May following the interim period during which the interim appointment was made ~~of the next ensuing regular session~~, the office shall be vacant and the interim appointment shall not serve in hold over status notwithstanding any other provision of law to the contrary. The Governor may not make a subsequent interim appointment for the same vacancy. ~~A subsequent interim appointment of a different person to a vacancy created by a failure of the Senate to grant confirmation to the original interim appointment shall expire on the second Tuesday in January following the date of such subsequent interim appointment and the office shall be vacant.~~

(B) The Governor’s authority to make an interim appointment pursuant to subsection (A) terminates when the General Assembly convenes the regular legislative session following the interim period between regular legislative sessions during which the office became vacant.”

SECTION 5. Article 5, Chapter 3 of Title 1 of the 1976 Code is amended by adding:

“Section 1-3-211. (A) If a vacancy exists in the head of an agency that requires appointment by the Governor with the advice and consent of the Senate, the Governor may designate an employee of the agency as the acting head of the agency if the person designated was employed by the agency for at least twelve consecutive months prior to the date upon which the vacancy occurred. A person designated as an acting agency head pursuant to this subsection may serve as the acting agency head no longer than the second Thursday in May following date upon which the vacancy occurred.

(B)(1) A person nominated by the Governor to head an agency that requires the advice and consent of the Senate who did not receive the advice and consent of the Senate, or whose nomination was withdrawn, may not be designated by the Governor as the acting head of the agency to which the person was nominated.

(2) A person nominated by the Governor to head an agency that requires the advice and consent of the Senate who also had been previously designated as the acting head of the agency who did not receive the advice and consent of the Senate, or whose nomination was withdrawn, may no longer exercise any authority or duties of that agency.”

SECTION 6. This act takes effect on January 1, 2020.

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