

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 4239

STATE OF NEW JERSEY

DATED: DECEMBER 16, 2021

The Senate Commerce Committee reports favorably Senate Bill No. 4239, with committee amendments.

As amended, this bill establishes certain consumer protection requirements upon service contract providers, or companies that offer contracts purporting to cover repairs to a consumer's home, car, or other goods.

In particular, the bill clarifies that legal requirements pertaining to service contracts apply to persons who are contractually obligated to the service contract holder under the terms of the service contract and an administrator. The bill allows service contract providers to use the terms "guaranty" or "warranty" in its name, products, descriptions of products, advertisements or other materials only if when using that term the provider clearly and conspicuously discloses that the service contract issued, offered for sale, or sold is not in the nature of a guaranty or warranty as that term is legally defined and commonly understood. Additionally, the bill does not prohibit the use of the term "extended warranty" to describe a product issued, offered for sale or sold in the State if the product accurately sets forth the terms and source of the original equipment manufacturer warranty upon which the product is based and clearly and conspicuously discloses that the product is a service contract offered under P.L.2013, c.197 (C.56:12-87 et seq.).

Moreover, the bill does not requires a provider that complies with certain other provisions of the bill or an insurer that the Commissioner of Banking and Insurance has determined meets financial solvency standards established under Title 17 of the New Jersey Statutes to comply with provisions in the bill regarding faithful performance. Persons who administer, issue, make, provide or offer to sell service contracts are jointly and severally liable in the bill for certain violations.

The bill requires providers who use a public utility's trade name or identifying information to clearly and prominently disclose:

(1) that the service contract is not being offered by the public utility but by a third party entity that is not part of the public utility, and that an entity other than the public utility will be responsible for performing the services advertised;

(2) the name of the provider that offers the service contract;

(3) the provider's contact information;

(4) that the communication is an advertisement; and

(5) if applicable, that the billing for the provider's services will be conducted through a public utility and that the public utility is an entity other than the provider.

The bill also requires providers to register with the Division of Consumer Affairs and allows the division to post information about a provider publicly on its website. The information to be submitted of the registration does not include an audited financial statement from the provider.

Lastly, the bill requires cancellation request to be acknowledged within 5 business days of receipt and honored within 10 days of receipt. The bill will take effect on the first day of the ninth month after enactment.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) update the definition of "provider;"

(2) clarify what a provider of service contracts may use in its name, products, descriptions of products, advertisements, or any other materials;

(3) expand the exceptions in regards to compliance with provisions regarding the assurance of faithful performance to contract holders;

(4) make persons who administer issue, make, provide or offer to sell service contracts jointly and severally liable for certain violations;

(5) modify what information is to be disclosed by a service contract provider;

(6) alter what registration as a service contract provider is to include in a registration;

(7) require cancellation requests to be acknowledged within 5 business days of receipt and honored within 10 business days of receipt; and

(8) makes the bill effective as of the first day of the ninth month.