

SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION

☒ FLOOR AMENDMENT

No. 1

☐ COMMITTEE AMENDMENT

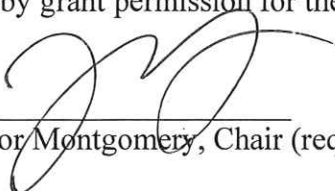
(Date)

I move to amend Senate Bill No. 541 by substituting the attached floor substitute (Request No. 1953) for the title, enacting clause, and entire body of the measure.

Submitted by:


Senator Montgomery

I hereby grant permission for the floor substitute to be adopted.


Senator Montgomery, Chair (required)

Senator Jett

Senator Brooks

Senator Coleman


Senator Dugger


Senator Garvin


Senator Hamilton


Senator Matthews

Senator Prieto


Senator Woods

Senator Treat, President Pro Tempore

Senator McCortney, Majority Floor Leader

Note: Retirement and Insurance committee majority requires six (6) members' signatures.


Montgomery-RD-FS-SB541

2/27/2023 9:44 AM

1

(Floor Amendments Only)

Date and Time Filed: 3-1-23

9:14 am 

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 FLOOR SUBSTITUTE
4 FOR

5 SENATE BILL NO. 541

By: Montgomery of the Senate

and

6 Sneed of the House

7
8
9 FLOOR SUBSTITUTE

10 An Act relating to service warranties; amending
11 Sections 3, 4, and 5, Chapter 16, O.S.L. 2022 (15
12 O.S. Supp. 2022, Sections 140.4, 140.5, and 140.6),
13 which relate to debt waivers, vehicle value
14 protection agreements, and enforcement; requiring
15 certain administrators to register with the Insurance
16 Department; requiring registration renewal by certain
17 date; requiring certain registrations and
18 registration fees to be submitted electronically;
19 requiring certain contact information changes to be
20 submitted within certain time period; directing
21 certain administrators and service warranty
22 associations to respond to the Insurance Commissioner
23 within certain time period; removing cash payment as
24 an acceptable deposit for certain trust with the
Commissioner; updating statutory reference; amending
15 O.S. 2021, Sections 141.4, 141.5, 141.8, 141.13,
as amended by Section 1, Chapter 241, O.S.L. 2017,
141.14, and 141.33, which relate to qualification for
license, annual license requirements, service
warranty forms, annual statements, and claim files;
requiring certain license application and fee be
submitted electronically by certain service warranty
association; requiring certain application to include
declaration; conforming language; establishing fees
for certain renewal processes; requiring certain
expired licensees to reapply as if a new applicant;
requiring certain applicants to submit certain
report; establishing certain fines; requiring certain

1 filing of financial statement include information for
2 certain time period; updating statutory language; and
3 providing an effective date.
4

5 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

6 SECTION 1. AMENDATORY Section 3, Chapter 16, O.S.L. 2022
7 (15 O.S. Supp. 2022, Section 140.4), is amended to read as follows:

8 Section 140.4. A. As used in this section:

9 1. "Administrator" means a person, other than an insurer or
10 creditor that performs administrative or operational functions
11 pursuant to debt waiver programs;

12 2. "Borrower" means a debtor, retail buyer, or lessee, under a
13 finance agreement;

14 3. "Creditor" means:

15 a. the lender in a loan or credit transaction,

16 b. the lessor in a lease transaction,

17 c. any retail seller of motor vehicles,

18 d. the seller in commercial retail installment
19 transactions, or

20 e. the assignees of any of the foregoing to whom the
21 credit obligation is payable; and

22 4. "Debt waiver" includes, but is not limited to:

23 a. "guaranteed asset protection waivers" or "GAP waivers"
24 means a contractual agreement wherein a creditor

1 agrees, with or without a separate charge, to cancel
2 or waive all or part of amounts due on a borrower's
3 financial agreement in the event of a total physical
4 damage loss or unrecovered theft of the motor vehicle,
5 which an agreement shall be part of, or as a separate
6 addendum to, the financial agreement. A GAP waiver
7 may also provide, with or without a separate charge, a
8 benefit that waives an amount or provides a borrower
9 with a credit towards the purchase of a replacement
10 motor vehicle,

11 b. "excess wear and use waiver" means a contractual
12 agreement wherein a creditor agrees, with or without a
13 separate charge, to cancel or waive all or part of
14 amounts that may become due under a borrower's lease
15 agreement as a result of excessive wear and use of a
16 motor vehicle, which an agreement shall be part of, or
17 as a separate addendum to, the lease agreement.

18 Excess wear and use waivers may also cancel or waive
19 amounts due for excess mileage, and

20 c. other products as approved by the Insurance
21 Commissioner.

22 B. 1. No administrator or creditor operating as an
23 administrator shall perform or engage in any administrative or
24 operational functions of a debt waiver program without first

1 registering with the Insurance Department. Registration shall be
2 renewed annually by July 15 of each calendar year. All
3 registrations shall be filed and fees shall be paid electronically
4 in the manner and form prescribed by the Commissioner.

5 2. An administrator or a creditor operating as an administrator
6 shall electronically file an updated registration within thirty (30)
7 days of any change of name, address, or email address.

8 3. Every administrator or creditor, upon receipt of any inquiry
9 from the Commissioner, shall furnish the Commissioner with an
10 adequate response to the inquiry within twenty (20) days from the
11 date of receipt of the inquiry.

12 C. As required for offering debt waivers:

13 1. A retail seller shall insure its debt waiver obligations
14 under a contractual liability or other insurance policy issued by an
15 insurer. A creditor other than retail sellers may insure its debt
16 waiver obligations under a contractual liability policy or other
17 such policy issued by an insurer. Any such insurance policy may be
18 directly obtained by a creditor or retail seller or may be obtained
19 by an administrator to cover a creditor's or retail seller's
20 obligations. However, retail sellers that are lessors on motor
21 vehicles are not required to insure obligations related to debt
22 waivers on such leased motor vehicles;

1 2. The debt waiver remains a part of the finance agreement upon
2 the assignment, sale, or transfer of such finance agreement by the
3 creditor;

4 3. Any creditor that offers a debt waiver shall report the sale
5 of, and subsequently forward the funds due to, the designated party
6 or parties; and

7 4. Funds received or held by a creditor or administrator that
8 belong to an insurer, creditor, or administrator shall be held by
9 such creditor or administrator in a fiduciary capacity.

10 ~~C.~~ D. Contractual Liability or Other Insurance Policies.

11 1. Contractual liability or other insurance policies insuring
12 debt waivers shall state the obligation of the insurer to reimburse
13 or pay to the creditor any sums the creditor is legally obligated to
14 waive under a debt waiver.

15 2. Coverage under a contractual liability or other insurance
16 policy insuring a debt waiver shall also cover any subsequent
17 assignee upon the assignment, sale, or transfer of the finance
18 agreement.

19 3. Coverage under a contractual liability or other insurance
20 policy insuring a debt waiver shall remain in effect unless canceled
21 or terminated in compliance with applicable insurance laws of this
22 state.

23 4. The cancelation or termination of a contractual liability or
24 other insurance policy shall not reduce the insurer's responsibility

1 for debt waivers issued by the creditor prior to the date of
2 cancelation or termination and for which the premium has been
3 received by the insurer.

4 ~~D.~~ E. Debt waivers shall disclose in writing and in clear,
5 understandable language the following:

6 1. The name and address of the initial creditor and the
7 borrower at the time of sale and identity of any administrator if
8 different from the creditor;

9 2. The purchase price, if any, and the terms of the debt waiver
10 including without limitation, the requirements of protection,
11 conditions, or exclusions associated with the debt waiver;

12 3. That the borrower may cancel the debt waiver within a free
13 look period, as specified in the debt waiver, and will be entitled
14 to a full refund of the purchase price paid by the borrower, if any,
15 as long as no benefits have been provided;

16 4. The procedures the borrower shall follow, if any, to obtain
17 debt waiver benefits under the terms and conditions of the debt
18 waiver including, if applicable, a telephone number or website and
19 address where the borrower may apply for debt waiver benefits;

20 5. Whether or not the debt waiver may be canceled after the
21 free look period and the conditions under which it may be canceled
22 or terminated including the procedures for requesting any refund of
23 amounts paid;

1 6. That in order to receive any refund due in the event of a
2 borrower's cancelation of the debt waiver, the borrower, in
3 accordance with the term of the debt waiver, shall provide a written
4 request to cancel to the creditor, administrator, or other such
5 party. If the cancelation of a debt waiver is due to an early
6 termination of the finance agreement and no benefit has been or will
7 be provided, then the borrower, in accordance with the terms of the
8 debt waiver, shall provide a written request to cancel to the
9 creditor or administrator within ninety (90) days of the occurrence
10 of the event terminating the finance agreement;

11 7. The methodology for calculating any refund of the unearned
12 purchase price of the debt waiver, if any, shall be due in the event
13 of cancelation of the debt waiver or early termination of a finance
14 agreement; and

15 8. That neither the extension of credit, the terms of the
16 credit, nor the terms of the related motor vehicle sale or lease,
17 may be conditioned upon the borrower's purchase of a debt waiver.

18 ~~E.~~ F. Cancelation.

19 1. Debt waiver agreements may be cancelable or non-cancelable
20 following the free look period. Debt waivers shall provide the
21 borrower, if a borrower cancels a debt waiver within the free look
22 period, a full refund of the amount the borrower paid, if any, as
23 long as no benefits have been provided.

1 2. In the event of a borrower's cancelation of the debt waiver
2 or upon the early termination of the finance agreement after the
3 debt waiver has been in effect beyond the free look period, the
4 borrower may be entitled to a refund of the amount the borrower paid
5 of the unearned portion of the purchase price, if any, minus a
6 cancelation fee not to exceed Seventy-five Dollars (\$75.00), if no
7 benefit has been or will be provided. In order to receive any
8 refund due in the event of a borrower's cancellation of the debt
9 waiver, the borrower shall provide a written request to cancel, in
10 accordance with the terms of the debt waiver, to the creditor or
11 administrator. If the cancelation is due to the early termination
12 of the finance agreement, then the borrower, in accordance with the
13 terms of the debt waiver, shall provide a written request to cancel
14 to the creditor or administrator within ninety (90) days of the
15 occurrence of the event terminating the finance agreement.

16 3. If the cancelation of a debt waiver occurs as a result of a
17 default under the finance agreement or the repossession of the motor
18 vehicle associated with the finance agreement, or any other
19 termination of the finance agreement, any refund due may be paid
20 directly to the creditor or administrator, unless the borrower can
21 show that the finance agreement has been paid in full.

22 ~~F.~~ G. Exempt Transactions.
23
24

1 1. Debt waivers offered by state or federal banks or credit
2 unions in compliance with the applicable state or federal law are
3 exempt from ~~this act~~ Section 140.2 et seq. of this title.

4 2. Subsection ~~D~~ E of this section and Section ~~5~~ 140.6 of this
5 ~~act title~~ shall not apply to debt waivers offered in connection with
6 commercial transactions.

7 SECTION 2. AMENDATORY Section 4, Chapter 16, O.S.L. 2022
8 (15 O.S. Supp. 2022, Section 140.5), is amended to read as follows:

9 Section 140.5. A. As used in this section:

10 1. "Administrator" means the person who may be responsible for
11 the administrative or operational function of vehicle value
12 protection agreements including, but not limited to, the
13 adjudication of claims or benefits requested by contract holders;

14 2. "Contract holder" means a person who is the purchaser or
15 holder of a vehicle value protection agreement;

16 3. "Provider" means a person that is obligated to provide a
17 benefit under a vehicle value protection agreement. A provider may
18 perform as an administrator or retain the services of a third-party
19 administrator; and

20 4. "Vehicle value protection agreement" means a contractual
21 agreement that provides a benefit towards either the reduction of
22 some or all of the contract holder's current finance agreement
23 deficiency balance, or towards the purchase or lease of a
24 replacement motor vehicle or motor vehicle services, upon the

1 occurrence of an adverse event to the motor vehicle including, but
2 not limited to, loss, theft, damage, obsolescence, diminished value,
3 or depreciation. These agreements do not include debt waivers.
4 These agreements may include, but not be limited to, trade-in-credit
5 agreements, diminished value agreements, depreciation benefit
6 agreements, or other similarly named agreements.

7 B. 1. No administrator or provider operating as an
8 administrator shall perform or engage in any administrative or
9 operational functions of vehicle value protection agreements without
10 first registering with the Insurance Department. Registration shall
11 be renewed annually by July 15 of each calendar year. All
12 registrations shall be filed and fees shall be paid electronically
13 in the manner and form prescribed by the Insurance Commissioner.

14 2. An administrator or a provider operating as an administrator
15 shall electronically file an updated registration within thirty (30)
16 days of any change of name, address, or email address.

17 3. Every administrator and provider, upon receipt of any
18 inquiry from the Commissioner, shall furnish the Commissioner with
19 an adequate response to the inquiry within twenty (20) days from the
20 date of receipt of the inquiry.

21 C. Requirements for offering vehicle value protection
22 agreements:

23 1. A provider may utilize an administrator or other designee to
24 be responsible for any and all of the administration of vehicle

1 value protection agreements in compliance with ~~this act~~ Section
2 140.2 et seq. of this title;

3 2. Vehicle value protection agreements shall not be sold unless
4 the contract holder has been or will be provided access to a copy of
5 that vehicle value protection agreement;

6 3. In order to assure the faithful performance of the
7 provider's obligations to its contract holders, each provider shall
8 be responsible for complying with the requirements of one of the
9 following:

- 10 a. insure all of its vehicle value protection agreements
11 under an insurance policy that covers one hundred
12 percent (100%) of its claim exposure, satisfies the
13 requirements of this act, and contains the following
14 provision: "In the event the provider is unable to
15 fulfill its obligations under vehicle value protection
16 agreements issued in this state for any reason
17 including insolvency, bankruptcy, or dissolution, the
18 insurer will pay any losses and unearned fees to the
19 person making a claim under such agreement." The
20 insurance policy shall be issued by an insurer
21 licensed, registered, or otherwise authorized to do
22 business in this state either:

- 23 (1) at the time the policy is filed with the
24 Insurance Commissioner, and continuously

1 thereafter, (i) maintain surplus as to
2 policyholders and paid-in capital no less than
3 Fifteen Million Dollars (\$15,000,000.00) and (ii)
4 annually file copies of the insurer's financial
5 statements, its National Association of Insurance
6 Commissioners (NAIC) Annual Statement, and the
7 actuarial certification required by and filed in
8 the insurer's state of domicile, or

9 (2) at the time the policy is filed with the
10 Commissioner, and continuously thereafter, (i)
11 maintain surplus as to policyholders and paid-in
12 capital of less than Fifteen Million Dollars
13 (\$15,000,000.00) but at least equal to Ten
14 Million Dollars (\$10,000,000.00), (ii)
15 demonstrate to the satisfaction of the
16 Commissioner that the company maintains a ratio
17 of net written premiums, wherever written, to
18 surplus as to policyholders and paid-in capital
19 of not greater than 3 to 1, and (iii) annually
20 file copies of the insurer's audited financial
21 statements, its NAIC Annual Statement, and the
22 actuarial certification required by and filed in
23 the insurer's state of domicile,

1 b. (1) maintain a funded reserve account for its
2 obligations under its contracts issued and
3 outstanding in this state. The reserves shall
4 not be less than forty percent (40%) of gross
5 considerations received, less claims paid, on the
6 sale of the vehicle value protection agreement
7 for all in-force contracts. The reserve account
8 shall be subject to examination and review by the
9 Commissioner, and

10 (2) place in trust with the Commissioner a financial
11 security deposit, having a value not less than
12 five percent (5%) of the gross consideration
13 received, less claims paid, on the sale of the
14 vehicle value protection agreements for all
15 vehicle value protection agreements issued and in
16 force, but not less than Twenty-five Thousand
17 Dollars (\$25,000.00), consisting of the
18 following:

19 (a) a surety bond issued by an authorized
20 surety,

21 (b) securities of the type eligible for deposit
22 by authorized insurers in this state,

23 (c) ~~cash,~~
24

1 ~~(d)~~ a letter of credit issued by a qualified
2 financial institution, or

3 ~~(e)~~

4 (d) another form of security prescribed by
5 regulations issued by the Commissioner, or

6 c. (1) maintain, or together with its parent company
7 maintain, a net worth or stockholders' equity of
8 One Hundred Million Dollars (\$100,000,000.00), ~~or~~
9 and

10 (2) upon request, provide the Commissioner with a
11 copy of the provider's or the provider's parent
12 company's most recent Form 10-K or Form 20-F
13 filed with the Securities and Exchange Commission
14 (SEC) within the last calendar year, or if the
15 company does not file with the SEC, a copy of the
16 company's audited financial statements, which
17 shows a net worth of the provider or its parent
18 company of at least One Hundred Million Dollars
19 (\$100,000,000.00). If the provider's parent
20 company's Form 10-K, Form 20-F, or financial
21 statements are filed to meet the provider's
22 financial security requirement, then the parent
23 company shall agree to guarantee the obligations
24 of the provider relating to the vehicle value

1 protection agreements sold by the provider in
2 this state; and

3 4. Except for the requirements in paragraph 3 of subsection B C
4 of this section, no other financial security requirements shall be
5 required for vehicle value protection agreement providers.

6 ~~C.~~ D. Vehicle value protection agreements shall disclose in
7 writing and in clear, understandable language the following:

8 1. The name and address of the provider, contract holder, and
9 administrator, if any;

10 2. The terms of the vehicle value protection agreement
11 including without limitation, the purchase price to be paid by the
12 contract holder, the requirements for eligibility, conditions of
13 coverage, or exclusions;

14 3. That the vehicle value protection agreement may be canceled
15 by the contract holder within a free look period as specified in the
16 vehicle value protection agreement, and in such an event, the
17 contract holder shall be entitled to a full refund of the purchase
18 price paid by the contract holder, if any, as long as no benefits
19 have been provided;

20 4. The procedure the contract holder shall follow, if any, to
21 obtain a benefit under the terms and conditions of the vehicle value
22 protection agreement including, if applicable, a telephone number or
23 website and address where the contract holder may apply for a
24 benefit;

1 5. Whether or not the vehicle value protection agreement is
2 cancelable after the free look period and the conditions under which
3 it may be canceled including the procedures for requesting any
4 refund of the unearned purchase price paid by the contract holder;

5 6. In the event of cancelation, the methodology for calculating
6 any refund of the unearned purchase price of the vehicle value
7 protection agreement due;

8 7. That neither the extension of credit, the terms of the
9 credit, nor the terms of the related motor vehicle sale or lease may
10 be conditioned upon the purchase of the vehicle value protection
11 agreement; and

12 8. Vehicle value protection agreements shall state the terms
13 and restrictions, or conditions governing cancelation of the vehicle
14 value protection agreement prior to the termination or expiration
15 date of the vehicle value protection agreement by either the
16 provider or the contract holder. The provider of the vehicle value
17 protection agreement shall mail a written notice to the contract
18 holder at the last known address of the contract holder contained in
19 the records of the provider at least five (5) days prior to
20 cancelation by the provider. Prior notice shall not be required if
21 the reason for cancelation is nonpayment of the provider fee, a
22 material misrepresentation by the contract holder to the provider or
23 administrator, or a substantial breach of duties by the contract
24 holder relating to the covered product or its use. The notice shall

1 state the effective date of cancelation and the reason for the
2 cancelation. If a vehicle value protection agreement is canceled by
3 the provider for a reason other than nonpayment of the provider fee,
4 the provider shall refund the contract holder one hundred percent
5 (100%) of the unearned pro rata provider fee paid by the contract
6 holder, if any. If coverage under the vehicle value protection
7 agreement continues after a claim, then any refund may deduct claims
8 paid. A reasonable administrative fee may be charged by the
9 provider not to exceed Seventy-five Dollars (\$75.00).

10 ~~D.~~ E. Subsection ~~E~~ D of this section and Section 5 140.6 of
11 this ~~act~~ title shall not apply to vehicle value protection
12 agreements offered in connection with a commercial transaction.

13 SECTION 3. AMENDATORY Section 5, Chapter 16, O.S.L. 2022
14 (15 O.S. Supp. 2022, Section 140.6), is amended to read as follows:

15 Section 140.6. The Insurance Commissioner shall promulgate
16 rules necessary to enforce the provisions of ~~this act~~ Section 140.2
17 et seq. of this title. After proper notice and opportunity for
18 hearing the Commissioner may take either or both of the following
19 actions:

20 1. Order the creditor, provider, administrator, or any other
21 person not in compliance with ~~this act~~ Section 140.2 et seq. of this
22 title to cease and desist from product related operations which are
23 in violation of ~~this act~~ Section 140.2 et seq. of this title; and or
24

1 2. Impose a penalty not to exceed Five Hundred Dollars
2 (\$500.00) per violation and no more than Ten Thousand Dollars
3 (\$10,000.00) for aggregated violations of a similar nature. For
4 purposes of this section, "violations of a similar nature" means the
5 violation consisted of the same or similar course of conduct,
6 action, or practice, irrespective of the number of times the action,
7 conduct, or practice which is determined to be a violation of ~~this~~
8 ~~act~~ Section 140.2 et seq. of this title occurred.

9 SECTION 4. AMENDATORY 15 O.S. 2021, Section 141.4, is
10 amended to read as follows:

11 Section 141.4. A. No person in this state shall act as a
12 service warranty association unless licensed by the Insurance
13 Commissioner.

14 B. A service warranty association shall pay to the Insurance
15 Department a license fee of Four Hundred Dollars (\$400.00) for such
16 license for each year, or part thereof, the license is in force.
17 Each service warranty association applying for a license shall
18 electronically submit a complete license application and pay the
19 license fee to the Insurance Commissioner in the manner and form
20 prescribed by the Commissioner, along with any transaction or other
21 applicable fees. Each application shall include a signed
22 declaration that under penalty of refusal, suspension, or revocation
23 of the license, the information provided in the application is true,
24

1 correct, and complete to the best of the applicant's knowledge and
2 belief.

3 C. An insurer, while authorized to transact property or
4 casualty insurance in this state, may also transact a service
5 warranty business without additional qualifications or licensure as
6 required by the Service Warranty Act, but shall be otherwise subject
7 to the provisions of the Service Warranty Act.

8 D. A service warranty association may appoint an administrator
9 or other designee to be responsible for any or all of the
10 administration of service warranties and compliance with the Service
11 Warranty Act.

12 E. The marketing, sale, offering for sale, issuance, making,
13 proposing to make and administration of service warranties by
14 associations and related service warranty sellers, administrators,
15 and other persons shall be exempt from all provisions of the
16 Oklahoma Insurance Code.

17 F. An agreement which provides specified scheduled maintenance
18 services over a stated period of time does not constitute insurance
19 or a service warranty.

20 SECTION 5. AMENDATORY 15 O.S. 2021, Section 141.5, is
21 amended to read as follows:

22 Section 141.5. The Insurance Commissioner shall not issue or
23 renew a license to any service warranty association unless the
24 association:

1 1. Is a solvent association;

2 2. Furnishes the Insurance Department with satisfactory
3 evidence that the management of the association is competent and
4 trustworthy and can successfully manage the affairs of the
5 association in compliance with law;

6 3. Proposes to use and uses in its business a name together
7 with a trademark or emblem, if any, which is distinctive and not so
8 similar to the name or trademark of any other person already doing
9 business in this state as will tend to mislead or confuse the
10 public;

11 4. Files the bond required by the Service Warranty Act; ~~and~~

12 5. Is formed under the laws of this state or another state,
13 district, territory, or possession of the United States, if the
14 association is other than a natural person; and

15 6. Has submitted all annual financial statements and
16 administrative fees required by the Service Warranty Act.

17 SECTION 6. AMENDATORY 15 O.S. 2021, Section 141.8, is
18 amended to read as follows:

19 Section 141.8. Each license issued to a service warranty
20 association shall expire on November 1 following the date of
21 issuance. If the association is then qualified under the provisions
22 of the Service Warranty Act, its license may be renewed annually,
23 upon ~~its request~~ electronic submission of a renewal application and
24 fee in the manner and form prescribed by the Insurance Commissioner

1 along with any applicable fees, and upon payment to the Insurance
2 Commissioner of the license fee in the amount of Four Hundred
3 Dollars (\$400.00) in advance for each such license year. A license
4 expired for failure to submit a renewal application may be
5 reinstated within ninety (90) days after the expiration date by
6 electronically submitting a fee in an amount that is double the
7 renewal fee and a renewal application in the form and manner
8 prescribed by the Commissioner along with any transaction or other
9 applicable fees. The Commissioner shall require a service warranty
10 association whose license has been expired for more than ninety (90)
11 days to reapply as if a new applicant and pay an application fee
12 that is double the initial application fee, in addition to any fines
13 imposed. All applications received after the license has been
14 expired for more than ninety (90) days shall include a detailed
15 report of service warranties issued in this state during the period
16 of expired licensure.

17 SECTION 7. AMENDATORY 15 O.S. 2021, Section 141.13, as
18 amended by Section 1, Chapter 241, O.S.L. 2017, is amended to read
19 as follows:

20 Section 141.13. A. No service warranty form or related form
21 shall be issued or used in this state unless the form has been filed
22 with the Insurance Commissioner. Service warranty forms shall not
23 be subject to prior approval and shall be filed with the Insurance
24 Commissioner for informational purposes only.

1 B. Each service warranty contract shall contain a ~~cancellation~~
2 cancellation provision. In the event the contract is canceled by the
3 warranty holder, return of the provider fee shall be based upon
4 ninety percent (90%) of the unearned pro rata provider fee less the
5 actual cost of any service provided under the service warranty
6 contract. In the event the contract is canceled by the association,
7 return of premium shall be based upon one hundred percent (100%) of
8 unearned pro rata provider fee less the actual cost of any service
9 provided under the service warranty contract.

10 C. Service warranties shall state the name and address of the
11 service warranty association and shall identify any administrator if
12 different from the service warranty association, the service
13 warranty seller and the service warranty holder to the extent that
14 the name of the service warranty holder has been furnished by the
15 service warranty holder. For service warranties issued on and after
16 July 1, 2017, the identity of the service warranty association and
17 its license number shall be preprinted on the service warranty or
18 added at the time of sale so consumers can clearly identify the
19 obligor of the service warranty. Information to be printed at the
20 time of sale shall be indicated as such at the time the service
21 warranty is filed and a "Jane Doe" specimen shall accompany the
22 service warranty illustrating how the service warranty will look
23 after printing.
24

1 Each person and service warranty association shall
2 electronically submit, in the form and manner prescribed by the
3 Commissioner, any change of legal business name, "doing business as"
4 or assumed name, address, or contact e-mail address within thirty
5 (30) days after the change occurred, and any fees deemed necessary
6 by the Commissioner. Any submission of a change under this
7 paragraph received more than thirty (30) days after the change
8 occurs shall be accompanied by a fee of Fifty Dollars (\$50.00).

9 D. The Commissioner shall have the authority to immediately
10 order a service warranty association to stop using any service
11 warranty contract if the Commissioner determines that the form:

- 12 1. Violates the Service Warranty Act;
13 2. Is misleading in any respect; or
14 3. Is reproduced so that any material provision is
15 substantially illegible.

16 E. The Insurance Commissioner may, by order, exempt from the
17 requirements of this section for so long as he or she deems proper
18 any document or form or type thereof as specified in such order, to
19 which, in his or her discretion, this section may not practicably be
20 applied, or the filing of which is, in his or her opinion, not
21 desirable or necessary for the protection of the public.

22 SECTION 8. AMENDATORY 15 O.S. 2021, Section 141.14, is
23 amended to read as follows:

1 Section 141.14. A. In addition to the license fees provided in
2 the Service Warranty Act for service warranty associations each
3 service warranty association and insurer shall annually, on or
4 before the first day of May, file with the Insurance Commissioner
5 its annual financial statement as of a date not earlier than three
6 hundred sixty-five (365) days prior to the date submitted showing
7 all gross written provider fees or assessments received by it in
8 connection with the issuance of service warranties in this state
9 during the preceding calendar year and other relevant financial
10 information as deemed necessary by the Commissioner. The financial
11 statements required by this subsection must be:

12 1. Audited and prepared in accordance with statutory accounting
13 principles if the applicant complies with the requirements of
14 subsection A of Section 141.6 of this title; or

15 2. Verified under oath of at least two of its principal
16 officers and prepared in accordance with generally accepted
17 accounting principles if the applicant utilizes an insurance policy
18 which satisfies the requirements of subsection B of Section 141.6 of
19 this title.

20 B. The Commissioner may levy a fine of up to One Hundred
21 Dollars (\$100.00) a day for each day an association neglects to file
22 its financial statement in the form and within the time provided by
23 the Service Warranty Act.

1 C. In addition to the annual financial statements required to
2 be filed by subsection A of this section, the Commissioner may
3 require of licensees, under oath and in the form prescribed by ~~it~~
4 the Commissioner, quarterly statements or special reports which the
5 Commissioner deems necessary for the proper supervision of licensees
6 under the Service Warranty Act.

7 D. Provider fees and assessments received by associations and
8 insurers for service warranties shall not be subject to the premium
9 tax provided in Section 624 of Title 36 of the Oklahoma Statutes,
10 but shall be subject to an administrative fee of equal to two
11 percent (2%) of the gross provider fee received on the sale of all
12 service warranties issued in this state during the preceding
13 calendar quarter. The fees shall be paid quarterly to the Insurance
14 Commissioner. However, licensed associations, licensed insurers and
15 entities with applications for licensure as a service warranty
16 association pending with the Insurance Department that have
17 contractual liability insurance in place as of March 31, 2009, from
18 an insurer which satisfies the requirements of subsections B and C
19 of Section 141.6 of this title and which covers one hundred percent
20 (100%) of the claims exposure of the association or insurer on all
21 contracts written may elect to pay an annual administrative fee of
22 Three Thousand Dollars (\$3,000.00) in lieu of the two-percent
23 administrative fee.

1 SECTION 9. AMENDATORY 15 O.S. 2021, Section 141.33, is
2 amended to read as follows:

3 Section 141.33. A. Claim files of service warranty
4 associations licensed pursuant to the Service Warranty Act shall be
5 subject to examination by the Insurance Commissioner or by duly
6 appointed designees. The claim files shall contain all notes and
7 work papers pertaining to a claim in such detail that pertinent
8 events and the dates of the events can be reconstructed. In
9 addition, the Commissioner and authorized employees and examiners
10 shall have access to any files of a service warranty association
11 that may relate to a particular complaint under investigation or to
12 an inquiry or examination by the Insurance Department.

13 B. Every service warranty association, upon receipt of any
14 inquiry from the Commissioner, shall, within ~~thirty (30)~~ twenty (20)
15 days from the date of the inquiry, furnish the Commissioner with an
16 adequate response to the inquiry.

17 C. Every service warranty association, upon receipt of any
18 pertinent written communication including, but not limited to,
19 electronic mail or other forms of written electronic communication
20 or documentation by the service warranty association of a verbal
21 communication from a claimant which reasonably suggests that a
22 response is expected, shall, within thirty (30) days after receipt
23 thereof, furnish the claimant with an adequate response to the
24 communication.

1 D. Any violation by a service warranty association of this
2 section shall subject the service warranty association to discipline
3 including a civil penalty of not less than One Hundred Dollars
4 (\$100.00) nor more than Five Thousand Dollars (\$5,000.00).

5 SECTION 10. This act shall become effective November 1, 2023.

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