

HCS HB 221 -- SERVICE CONTRACTS (Yates)

COMMITTEE OF ORIGIN: Insurance Policy

This substitute changes the laws regarding service contracts.

#### MOTOR VEHICLE SERVICE CONTRACTS

The substitute:

- (1) Defines "fronting company" as 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 a sale of a 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 substitute:

- (1) Prohibits any person from issuing or selling a product service contract without registering and paying a fee with 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 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 provider fees collected from being subject to premium taxes and exempts the person selling the contract from other state licensing laws if all requirements are met;

(4) Requires providers of service contracts to furnish a written statement to the consumer specifying their obligations and conveying terms and 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 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 the provisions of the substitute.

The substitute becomes effective January 1, 2008.

FISCAL NOTE: No impact on General Revenue Fund in FY 2008, FY 2009, and FY 2010. Estimated Effect on Other State Funds of an income of \$3,083 in FY 2008, a cost of \$20,020 in FY 2009, and a cost of \$21,288 in FY 2010.