

ASSEMBLY BILL NO. 88—COMMITTEE
ON COMMERCE AND LABOR

FEBRUARY 11, 2013

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing service contracts.
(BDR 57-755)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to service contracts; defining the terms “incidental costs,” “road hazard” and “vehicle protection product” for certain purposes relating to such contracts; setting forth the manner in which a holder of a service contract covering a motor vehicle may be reimbursed for any incidental costs incurred by the holder; revising the definition of “service contract” to include certain services; revising the circumstances under which an insurer may issue a contractual liability insurance policy for purchase by a provider; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law sets forth various provisions governing the issuance and
2 enforcement of service contracts in this State. (Chapter 690C of NRS) A “service
3 contract” means a contract pursuant to which a provider under the contract becomes
4 obligated for a specified period to a holder of the service contract to repair, replace
5 or perform maintenance on, or to indemnify or reimburse the holder for the costs of
6 repairing, replacing or performing maintenance on, any goods that are described in
7 the service contract and which have an operational or structural failure resulting
8 from a defect in materials, workmanship or normal wear and tear. (NRS 690C.080)
9 A provider under a service contract is prohibited from issuing, selling or offering
10 for sale in this State any service contract unless the provider is issued a certificate
11 of registration by the Commissioner of Insurance. (NRS 690C.150) To be issued a
12 certificate of registration, existing law requires a provider to: (1) purchase a
13 contractual liability insurance policy which insures the obligations of each service
14 contract issued, sold or offered for sale by the provider and which is issued by an
15 insurer which meets certain qualifications; or (2) maintain, or be a subsidiary of a
16 parent company that maintains, a net worth or stockholders’ equity of at least



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17 \$100,000,000. (NRS 690C.170) **Sections 2-4** of this bill define the terms
18 “incidental costs,” “road hazard” and “vehicle protection product” for the purpose
19 of service contracts governed by chapter 690C of NRS. **Section 5** of this bill
20 provides that a holder of a service contract covering a motor vehicle may be
21 reimbursed for any incidental costs incurred by the holder: (1) in a fixed amount
22 specified in the service contract; or (2) by using a formula which itemizes specific
23 incidental costs incurred by the holder. **Section 7** of this bill revises the definition
24 of “service contract” to include a contract that is effective for a specified period and
25 paid for in a manner other than through the purchase of a motor vehicle for the
26 performance of certain repairs or to make certain payments under the service
27 contract. **Section 8** of this bill requires an insurer which issues a contractual
28 liability insurance policy for purchase by a provider to comply with certain
29 minimum standards concerning the maintenance of a surplus by the insurer and the
30 filing of financial documents relating to the insurer.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 690C of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 5, inclusive, of this
3 act.

4 **Sec. 2.** *“Incidental costs” means any expense specified in a*
5 *service contract covering a motor vehicle that is incurred by the*
6 *holder because of the failure of a vehicle protection product to*
7 *perform as provided in the service contract. The term includes,*
8 *without limitation:*

- 9 1. *A deductible in a policy of insurance;*
- 10 2. *A charge for a rental vehicle;*
- 11 3. *The difference between the actual value of a stolen motor*
12 *vehicle at the time of the theft of the motor vehicle and the cost to*
13 *replace the motor vehicle;*
- 14 4. *Any sales tax;*
- 15 5. *Any fee for registration;*
- 16 6. *Any transaction fee; and*
- 17 7. *Any mechanical inspection fee.*

18 **Sec. 3.** *“Road hazard” means any hazard that is encountered*
19 *during normal driving conditions, including, without limitation,*
20 *any pothole, rock, wood debris, metal part, glass, plastic, curb or*
21 *composite scrap.*

22 **Sec. 4. 1.** *“Vehicle protection product” means a protective*
23 *chemical, device, service, substance or system that:*

- 24 (a) *Is installed on or applied to a motor vehicle;*
- 25 (b) *Is designed to prevent loss or damage to a motor vehicle*
26 *from a specified cause; and*
- 27 (c) *Includes a written warranty.*

28 2. *The term includes, without limitation, an alarm system,*
29 *product for marking body parts, steering lock, product to etch a*



1 *window, pedal lock, ignition lock, emergency shut-off switch for*
2 *the fuel system or ignition system and any electronic, radio or*
3 *satellite tracking device.*

4 *3. The term does not include any fuel additive, oil additive or*
5 *other chemical product added to the engine, transmission, fuel*
6 *system or other internal working component of a motor vehicle.*

7 **Sec. 5.** *A holder of a service contract covering a motor*
8 *vehicle may be reimbursed for any incidental costs incurred by the*
9 *holder:*

10 *1. In a fixed amount specified in the service contract; or*
11 *2. By using a formula which itemizes specific incidental costs*
12 *incurred by the holder.*

13 **Sec. 6.** NRS 690C.010 is hereby amended to read as follows:
14 690C.010 As used in this chapter, unless the context otherwise
15 requires, the words and terms defined in NRS 690C.020 to
16 690C.080, inclusive, *and sections 2, 3 and 4 of this act* have the
17 meanings ascribed to them in those sections.

18 **Sec. 7.** NRS 690C.080 is hereby amended to read as follows:
19 690C.080 1. "Service contract" means a contract pursuant to
20 which a provider, in exchange for separately stated consideration, is
21 obligated for a specified period to a holder to repair, replace or
22 perform maintenance on, or indemnify or reimburse the holder for
23 the costs of repairing, replacing or performing maintenance on,
24 goods that are described in the service contract and which have an
25 operational or structural failure as a result of a defect in materials,
26 workmanship or normal wear and tear, including, without limitation:

27 (a) A contract that includes a provision for incidental payment
28 of indemnity under limited circumstances, including, without
29 limitation, towing, rental and emergency road service; and

30 (b) A contract that provides for the repair, replacement or
31 maintenance of goods for damages that result from power surges or
32 accidental damage from handling.

33 2. The term *includes a contract that is effective for a specified*
34 *period and paid for in a manner other than through the purchase*
35 *of a motor vehicle to perform one or more of the following:*

36 (a) *The repair or replacement of any tire or wheel on a motor*
37 *vehicle damaged by a road hazard;*

38 (b) *The removal of a dent or crease on a motor vehicle using a*
39 *process of paintless removal without affecting the finish of the*
40 *existing paint and without replacing a vehicle body panel, or by*
41 *sanding, bonding or painting;*

42 (c) *The repair of any chip or crack in a windshield or*
43 *replacement of a windshield in any motor vehicle as the result of*
44 *any damage caused to the windshield by a road hazard;*



(d) *The replacement of a key or key fob for a motor vehicle if the key or key fob becomes inoperable or is lost;*

(e) *The payment of any specified incidental costs as the result of the failure of a vehicle protection product to perform as specified; or*

(f) *The payment of any other product or service approved by the Commissioner.*

3. *The term* does not include a contract pursuant to which a provider, other than the manufacturer, builder, seller or lessor of a manufactured home, in exchange for separately stated consideration, is obligated for a specified period to a holder to repair or replace, or indemnify or reimburse the holder for the costs of repairing or replacing, any component of the physical structure of the manufactured home, including, without limitation, the walls, roof supports, structural floor base or foundation.

Sec. 8. NRS 690C.170 is hereby amended to read as follows:

690C.170 1. To be issued a certificate of registration, a provider must comply with one of the following:

~~1.1~~ (a) Purchase a contractual liability insurance policy which insures the obligations of each service contract the provider issues, sells or offers for sale. The contractual liability insurance policy must be issued by an insurer which is ~~not an affiliate of the provider and which is~~ *licensed, registered or otherwise* authorized to transact insurance in this state or pursuant to the provisions of chapter 685A of NRS ~~1.1~~ *and which is in compliance with the provisions of subsection 2;* or

~~1.2~~ (b) Maintain, or be a subsidiary of a parent company that maintains, a net worth or stockholders' equity of at least \$100,000,000. Upon request, a provider shall provide to the Commissioner a copy of the most recent Form 10-K report or Form 20-F report filed by the provider or parent company of the provider with the Securities and Exchange Commission within the previous year. If the provider or parent company is not required to file those reports with the Securities and Exchange Commission, the provider shall provide to the Commissioner a copy of the most recently audited financial statements of the provider or parent company. If the net worth or stockholders' equity of the parent company of the provider is used to comply with the requirements of this ~~subsection~~ *paragraph*, the parent company must guarantee to carry out the duties of the provider under any service contract issued or sold by the provider.

2. *To comply with the requirement set forth in paragraph (a) of subsection 1, an insurer who issues a contractual liability insurance policy specified in that paragraph shall:*



1 (a) *At the time the policy is filed with the Commissioner, and*
2 *continuously thereafter:*

3 (1) *Maintain a surplus as to policyholders and paid-in*
4 *capital of at least \$15,000,000; and*

5 (2) *Annually file at least one copy each of the insurer's*
6 *audited financial statements, the annual statement filed with the*
7 *National Association of Insurance Commissioners and any*
8 *actuarial certification required by and filed in the state of domicile*
9 *of the insurer; or*

10 (b) *At the time the policy is filed with the Commissioner, and*
11 *continuously thereafter:*

12 (1) *Maintain a surplus as to policyholders and paid-in*
13 *capital of less than \$15,000,000 but not less than \$10,000,000;*

14 (2) *Demonstrate to the satisfaction of the Commissioner*
15 *that the insurer maintains a ratio of net premiums to surplus as to*
16 *policyholders and paid-in capital of not greater than 3 to 1,*
17 *regardless of where the net premiums are written; and*

18 (3) *Annually file at least one copy each of the insurer's*
19 *audited financial statements, the annual statement filed with the*
20 *National Association of Insurance Commissioners and any*
21 *actuarial certification required by and filed in the state of domicile*
22 *of the insurer.*

23 **Sec. 9.** The provisions of NRS 690C.170, as amended by
24 section 8 of this act, do not apply to a contractual liability insurance
25 policy specified in that section which is purchased before October 1,
26 2013.

