

Amendment No. 423

Senate Amendment to Senate Bill No. 381	(BDR 52-1009)
Proposed by: Senate Committee on Commerce and Labor	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



SENATE BILL NO. 381—COMMITTEE ON COMMERCE AND LABOR

MARCH 26, 2021

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to certain businesses. (BDR 52-1009)

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 businesses; exempting certain creditors from provisions governing deferred deposit loans, high-interest loans and title loans ~~and~~ under certain circumstances; revising provisions relating to service contracts and providers of service contracts; setting forth various requirements and restrictions for providers of home service contracts; ~~authorizing the Commissioner of Insurance to make certain inquiries into the conduct of providers of home service contracts; requiring~~ revising certain fees for providers of service contracts; ~~He pay certain fees biennially rather than annually;~~ setting forth certain requirements relating to the payment of a refund to the holder of a service contract who cancels or returns the service contract; setting forth certain requirements for the content of a service contract; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law exempts from provisions governing the licensure and regulation of providers of deferred deposit loans, high-interest loans and title loans a person who exclusively extends credit to any person who is not a resident of this State for any business, commercial or agricultural purpose that is located outside of this State. (NRS 604A.250) **Section 1** of this bill revises this exemption to apply to a person who exclusively extends credit in an amount of \$50,000 or more to any person for any business, commercial or agricultural purpose, regardless of any personal guarantee or collateral and regardless of whether the debtor is a resident of this State or the purpose is located in this State.

Existing law provides for the registration and regulation of providers of service contracts in this State by the Commissioner of Insurance. (Chapter 690C of NRS) Existing law defines "service contract" to generally mean a contract pursuant to which a provider is obligated for a specified period to a holder to repair, replace or perform maintenance on, or indemnify or reimburse the holder for the costs of repairing, replacing or performing maintenance on, goods that are described in the service contract. (NRS 690C.080) **Sections 11 and 12** of this bill, respectively, revise the definitions of "provider" and "service contract" to, among other things, include the servicing of a good as a service for which a provider may be obligated under a service contract.

Section 12 also revises the definition of "service contract" to include a "home service contract," which is defined in **section 4** of this bill to generally mean a service contract that covers goods which are household appliances, systems or components. **Section 10** of this bill

revises the definition of “goods” to specify that the term includes a household appliance, system or component. **Section 5** of this bill imposes certain requirements on a provider who issues or sells a home service contract relating to claims for services under the contract. **Section 6** of this bill prohibits certain practices by providers who have issued or sold a home service contract.

Section 3.5 of this bill defines “emergency service contract” to mean a home service contract whereby the provider agrees to provide repairs on an expedited basis and within a specified period of time. Section 6.5 of this bill requires a provider to include certain disclosures in any advertising, sales, marketing or other promotional materials offering a home service contract that is not an emergency service contract.

Existing regulations require a provider to refund the unearned purchase price of a service contract to a holder who requests the cancellation of the service contract in accordance with the terms of the contract. Existing regulations authorize a provider to impose a reasonable fee for such a cancellation under certain circumstances. (NAC 690C.120) **Section 7** of this bill codifies these provisions in statute. **Section 7** also provides that, for a home service contract, 10 percent of the purchase price of the contract or \$75, whichever is less, is deemed to be a reasonable cancellation fee. Section 7 further allows a provider to deduct from the portion of the purchase price that is unearned by the provider any claims paid by the provider during the contract year in which the holder requests the cancellation of the service contract. **Section 18** of this bill revises provisions of existing law which prohibit the cancellation of a service contract from becoming effective until at least 15 days after notice of cancellation is mailed to the holder for the purpose of clarifying this prohibition applies only to the cancellation of a service contract by the provider who issued or sold the contract. (NRS 690C.270)

~~[— Existing regulations authorize a provider who is required to provide a refund to a holder pursuant to the holder’s cancellation or return of a service contract to, if the purchase price of the service contract is financed and not paid in full, send the refund to the lender in an amount that does not exceed the outstanding balance of the holder on the loan. (NAC 690C.120) Sections 7 and 16 of this bill codify this authorization in statute.~~

~~— Existing law authorizes the Commissioner to conduct certain examinations of a provider and requires a provider to make certain accounts, books and records available to the Commissioner for inspection. (NRS 690C.320) Section 8 of this bill additionally authorizes the Commissioner to make certain inquiries into the conduct of providers who have issued or sold a home service contract. Section 8 authorizes the Commissioner, in conducting such an inquiry, to request certain information from a provider concerning the holder of a home service contract and sets forth certain requirements relating to such a request.]~~

Existing law provides that the sale of a service contract pursuant to the provisions of existing law governing the sale of service contracts to consumers does not constitute the business of insurance for the purposes of certain provisions of federal law that impose civil and criminal penalties upon certain persons engaged in the business of insurance who engage in certain fraudulent activities. (NRS 690C.100; 18 U.S.C. §§ 1033-1034) **Section 13** of this bill provides that the sale of a service contract to ~~[a person who is not a consumer]~~ any other third party also does not constitute the business of insurance for the purposes of those provisions of federal law.

Existing law requires a provider who wishes to issue, sell or offer for sale service contracts in this State to pay an initial fee in the amount of \$1,300 at the time of submission of an application for registration and an annual fee in the amount of \$1,300. (NRS 680C.110, 690C.160) **Sections 2 and 14** of this bill instead require a provider to pay ~~[-]~~ an initial fee [biennially] in the amount of \$2,600 [-] and a biennial fee in the amount of \$2,600. **Section 15** of this bill revises provisions relating to the amount of money that a provider is required to maintain in a reserve account and the amount of a security that a provider is required to deposit with the Commissioner to satisfy certain requirements for the issuance of a certificate of registration. (NRS 690C.170)

Existing law sets forth certain requirements for the content of a service contract. (NRS 690C.260) **Section 17** of this bill requires certain additional information to be included in a service contract.

Section 9 of this bill makes a conforming change to indicate the proper placement of new provisions in the Nevada Revised Statutes.

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

Section 1. NRS 604A.250 is hereby amended to read as follows:

604A.250 The provisions of this chapter do not apply to:

1. Except as otherwise provided in NRS 604A.200, a person doing business pursuant to the authority of any law of this State or of the United States relating to banks, national banking associations, savings banks, trust companies, savings and loan associations, credit unions, mortgage companies, thrift companies or insurance companies, including, without limitation, any affiliate or subsidiary of such a person regardless of whether the affiliate or subsidiary is a bank.

2. A person who is primarily engaged in the retail sale of goods or services who:

(a) As an incident to or independently of a retail sale or service, from time to time cashes checks for a fee or other consideration of not more than \$2; and

(b) Does not hold himself or herself out as a check-cashing service.

3. A person while performing any act authorized by a license issued pursuant to chapter 671 of NRS.

4. A person who holds a nonrestricted gaming license issued pursuant to chapter 463 of NRS while performing any act in the course of that licensed operation.

5. A person who is exclusively engaged in a check-cashing service relating to out-of-state checks.

6. A corporation organized pursuant to the laws of this State that has been continuously and exclusively engaged in a check-cashing service in this State since July 1, 1973.

7. A pawnbroker, unless the pawnbroker operates a check-cashing service, deferred deposit loan service, high-interest loan service or title loan service.

8. A real estate investment trust, as defined in 26 U.S.C. § 856.

9. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

10. An attorney at law rendering services in the performance of his or her duties as an attorney at law if the loan is secured by real property.

11. A real estate broker rendering services in the performance of his or her duties as a real estate broker if the loan is secured by real property.

12. Any firm or corporation:

(a) Whose principal purpose or activity is lending money on real property which is secured by a mortgage;

(b) Approved by the Federal National Mortgage Association as a seller or servicer; and

(c) Approved by the Department of Housing and Urban Development and the Department of Veterans Affairs.

13. A person who provides money for investment in loans secured by a lien on real property, on his or her own account.

14. A seller of real property who offers credit secured by a mortgage of the property sold.

15. A person who makes a refund anticipation loan, unless the person operates a check-cashing service, deferred deposit loan service, high-interest loan service or title loan service.

16. A person who exclusively extends credit to any person ~~{who is not a resident of this State}~~ in an amount of \$50,000 or more for any business,

commercial or agricultural purpose ~~that is located outside of this State.~~ regardless of any personal guarantee or collateral.

Sec. 2. NRS 680C.110 is hereby amended to read as follows:

680C.110 1. In addition to any other fee or charge, the Commissioner shall collect in advance and receipt for, and persons so served must pay to the Commissioner, the fees required by this section.

2. A fee required by this section must be:

(a) If an initial fee, paid at the time of an initial application or issuance of a license, as applicable;

(b) Except as otherwise provided in NRS 680A.180, 683A.378, 686A.380, ~~690C.160,~~ 694C.230, 695A.080, 695B.135, 695D.150, 695H.090 and 696A.150, if an annual fee, paid on or before the date established by regulation of the Commissioner;

(c) *If a biennial fee required by subparagraph (2) of paragraph (x), paid on or before the date set forth in NRS 690C.160;*

(d) If a triennial fee, paid on or before the time of continuation, renewal or other similar action in regard to a certificate, license, permit or other type of authorization, as applicable; and

~~[(d)]~~ (e) Deposited in the Fund for Insurance Administration and Enforcement created by NRS 680C.100.

3. The fees required pursuant to this section are not refundable.

4. The following fees must be paid by the following persons to the Commissioner:

(a) Associations of self-insured private employers, as defined in NRS 616A.050:

(1) Initial fee \$1,300
(2) Annual fee \$1,300

(b) Associations of self-insured public employers, as defined in NRS 616A.055:

(1) Initial fee \$1,300
(2) Annual fee \$1,300

(c) Independent review organizations, as provided for in NRS 616A.469 or 683A.3715, or both:

(1) Initial fee \$60
(2) Annual fee \$60

(d) Producers of insurance, as defined in NRS 679A.117:

(1) Initial fee \$60
(2) Triennial fee \$60

(e) Reinsurers, as provided for in NRS 681A.1551 or 681A.160, as applicable:

(1) Initial fee \$1,300
(2) Annual fee \$1,300

(f) Intermediaries, as defined in NRS 681A.330:

(1) Initial fee \$60
(2) Triennial fee \$60

(g) Reinsurers, as defined in NRS 681A.370:

(1) Initial fee \$1,300
(2) Annual fee \$1,300

(h) Administrators, as defined in NRS 683A.025:

(1) Initial fee \$60
(2) Triennial fee \$60

(i) Managing general agents, as defined in NRS 683A.060:

(1) Initial fee \$60

1	(2) Triennial fee	\$60
2	(j) Agents who perform utilization reviews, as defined in NRS	
3	683A.376:	
4	(1) Initial fee	\$60
5	(2) Annual fee	\$60
6	(k) Insurance consultants, as defined in NRS 683C.010:	
7	(1) Initial fee	\$60
8	(2) Triennial fee	\$60
9	(l) Independent adjusters, as defined in NRS 684A.030:	
10	(1) Initial fee	\$60
11	(2) Triennial fee	\$60
12	(m) Public adjusters, as defined in NRS 684A.030:	
13	(1) Initial fee	\$60
14	(2) Triennial fee	\$60
15	(n) Motor vehicle physical damage appraisers, as defined in NRS	
16	684B.010:	
17	(1) Initial fee	\$60
18	(2) Triennial fee	\$60
19	(o) Brokers, as defined in NRS 685A.031:	
20	(1) Initial fee	\$60
21	(2) Triennial fee	\$60
22	(p) Companies, as defined in NRS 686A.330:	
23	(1) Initial fee	\$1,300
24	(2) Annual fee	\$1,300
25	(q) Rate service organizations, as defined in NRS 686B.020:	
26	(1) Initial fee	\$1,300
27	(2) Annual fee	\$1,300
28	(r) Brokers of viatical settlements, as defined in NRS 688C.030:	
29	(1) Initial fee	\$60
30	(2) Annual fee	\$60
31	(s) Providers of viatical settlements, as defined in NRS 688C.080:	
32	(1) Initial fee	\$60
33	(2) Annual fee	\$60
34	(t) Agents for prepaid burial contracts subject to the provisions of	
35	chapter 689 of NRS:	
36	(1) Initial fee	\$60
37	(2) Triennial fee	\$60
38	(u) Agents for prepaid funeral contracts subject to the provisions of	
39	chapter 689 of NRS:	
40	(1) Initial fee	\$60
41	(2) Triennial fee	\$60
42	(v) Sellers of prepaid burial contracts subject to the provisions of	
43	chapter 689 of NRS:	
44	(1) Initial fee	\$60
45	(2) Triennial fee	\$60
46	(w) Sellers of prepaid funeral contracts subject to the provisions of	
47	chapter 689 of NRS:	
48	(1) Initial fee	\$60
49	(2) Triennial fee	\$60
50	(x) Providers, as defined in NRS 690C.070:	
51	(1) Initial fee	[\$1,300] \$2,600
52	(2) Annual Biennial fee	[\$1,300] \$2,600
53	(y) Escrow officers, as defined in NRS 692A.028:	

1	(1) Initial fee	\$60
2	(2) Triennial fee	\$60
3	(z) Title agents, as defined in NRS 692A.060:	
4	(1) Initial fee	\$60
5	(2) Triennial fee	\$60
6	(aa) Captive insurers, as defined in NRS 694C.060:	
7	(1) Initial fee	\$250
8	(2) Annual fee	\$250
9	(bb) Purchasing groups, as defined in NRS 695E.100:	
10	(1) Initial fee	\$250
11	(2) Annual fee	\$250
12	(cc) Risk retention groups, as defined in NRS 695E.110:	
13	(1) Initial fee	\$250
14	(2) Annual fee	\$250
15	(dd) Medical discount plans, as defined in NRS 695H.050:	
16	(1) Initial fee	\$1,300
17	(2) Annual fee	\$1,300
18	(ee) Club agents, as defined in NRS 696A.040:	
19	(1) Initial fee	\$60
20	(2) Triennial fee	\$60
21	(ff) Motor clubs, as defined in NRS 696A.050:	
22	(1) Initial fee	\$1,300
23	(2) Annual fee	\$1,300
24	(gg) Bail agents, as defined in NRS 697.040:	
25	(1) Initial fee	\$60
26	(2) Triennial fee	\$60
27	(hh) Bail enforcement agents, as defined in NRS 697.055:	
28	(1) Initial fee	\$60
29	(2) Triennial fee	\$60
30	(ii) Bail solicitors, as defined in NRS 697.060:	
31	(1) Initial fee	\$60
32	(2) Triennial fee	\$60
33	(jj) General agents, as defined in NRS 697.070:	
34	(1) Initial fee	\$60
35	(2) Triennial fee	\$60
36	(kk) Exchange enrollment facilitators, as defined in NRS 695J.050:	
37	(1) Initial fee	\$60
38	(2) Triennial fee	\$60
39	5. An initial fee of \$1,000 must be paid to the Commissioner by each:	
40	(a) Insurer who is authorized to transact casualty insurance, as defined in NRS	
41	681A.020;	
42	(b) Insurer who is authorized to transact health insurance, as defined in NRS	
43	681A.030;	
44	(c) Insurer who is authorized to transact life insurance, as defined in NRS	
45	681A.040;	
46	(d) Insurer who is authorized to transact property insurance, as defined in NRS	
47	681A.060;	
48	(e) Title insurer, as defined in NRS 692A.070;	
49	(f) Fraternal benefit society, as defined in NRS 695A.010;	
50	(g) Corporation subject to the provisions of chapter 695B of NRS;	
51	(h) Health maintenance organization, as defined in NRS 695C.030;	
52	(i) Organization for dental care, as defined in NRS 695D.060; and	
53	(j) Prepaid limited health service organization, as defined in NRS 695F.050.	

6. An insurer who is required to pay an initial fee of \$1,000 pursuant to subsection 5 shall also pay to the Commissioner an annual fee in an amount determined by the Commissioner. When determining the amount of the annual fee, the Commissioner must consider:

(a) The direct written premiums reported to the Commissioner by the insurer during the previous year;

(b) The number of insurers who are required to pay an annual fee pursuant to this subsection;

(c) The direct written premiums reported during the previous year by all insurers paying such fees; and

(d) The budget of the Division.

7. An insurer who is not required to pay an initial or annual fee pursuant to subsection 4 or subsections 5 and 6 shall pay to the Commissioner an initial fee of \$1,300 and an annual fee of \$1,300.

Sec. 3. Chapter 690C of NRS is hereby amended by adding thereto the provisions set forth as sections ~~44~~ 3.5 to 8, inclusive, of this act.

Sec. 3.5. “Emergency service contract” means a home service contract whereby the provider agrees to provide repairs on an expedited basis and within a specified period of time.

Sec. 4. “Home service contract” means a service contract which covers goods that are household appliances, systems or components. The term includes a contract described in paragraph (b) of subsection 2 of NRS 690B.100.

Sec. 5. 1. A provider who has issued or sold a home service contract shall conduct and diligently pursue a thorough, fair and objective investigation relating to each claim for services under the contract and shall not persist in seeking information that is not reasonably required for or material to the resolution of a claim.

2. If a holder of a home service contract that is not an emergency service contract makes a claim for ~~emergency~~ services involving the repair of ~~goods~~ a heating or cooling system covered by the home service contract ~~dur~~ during a period of extreme heat or cold or any other repair of goods covered by the home service contract that affect the immediate health and safety of the holder, the provider shall ~~complete the repairs~~ :

(a) Respond to the claim within ~~72~~ 24 hours after the receipt of the claim ~~fr~~ ; and

(b) If the provider ~~is unable to complete such~~ has not completed the repairs within ~~that period of time,~~ 72 hours, the provider shall provide to the holder ~~a notice in writing that sets forth a plan for completing the repairs and a proposed time frame~~ written procedures for expediting the completion of the repairs.

3. If a provider who has issued or sold a home service contract denies a claim for services, in whole or in part, the provider shall communicate the denial to the holder by ~~telephone,~~ mail, electronic mail or in any other manner established by the home service contract ~~fr~~ that is written and reproducible.

Sec. 6. A provider who has issued or sold a home services contract shall not:

1. Attempt to settle a claim by making a settlement offer that is unreasonably unfair or unreasonably less than the benefits described in the home service contract;

2. Deny a claim based on information obtained in a telephone conversation or personal interview with any source unless the telephone conversation or personal interview is documented in the records relating to the claim that are required to be maintained pursuant to NRS 690C.310;

3. Require that a holder of a home service contract withdraw, rescind or refrain from submitting any complaint to the Commissioner regarding the handling of a claim or any other matter complained of as a condition precedent to the settlement of any claim;

4. Misrepresent or conceal benefits, time limits or other provisions of the home service contract; or

5. Discriminate in its claim management practices based on age, race, ethnicity, ancestry, national origin, sex, gender identity or expression, religion, income, language or mental or physical disability.

Sec. 6.5. If a provider or an agent of a provider uses advertising, sales, marketing or other promotional materials to offer a home service contract that is not an emergency service contract, the materials must contain a statement to the effect that the home service contract being offered is not an emergency service contract and that services under the contract will be provided as soon as commercially and practically feasible.

Sec. 7. 1. If a holder who is the original purchaser of a service contract submits to the provider a request in writing to cancel the service contract in accordance with the terms of the contract, the provider shall refund to the holder the portion of the purchase price that is unearned by the provider.

2. If a holder requests the cancellation of a service contract pursuant to subsection 1, the provider may impose a reasonable cancellation fee if such a fee is provided for in the terms of the service contract.

3. When calculating the amount of a refund pursuant to subsection 1, the provider may deduct from the portion of the purchase price that is unearned by the provider any:

(a) Outstanding balance on the account of the holder; ~~and~~

(b) Any claims paid by the provider during the contract year in which the holder requests the cancellation of the service contract; and

(c) Cancellation fee imposed pursuant to this section.

4. ~~Except as otherwise provided in this subsection, if the purchase price of a service contract is financed and the loan has not been paid in full by the holder, the provider may provide a refund to the holder pursuant to this section by sending the refund to the lender. The amount of refund that may be sent to the lender must not exceed the outstanding balance of the holder on the loan.~~

~~5. For the cancellation of a service contract that is a home service contract, a cancellation fee of not more than 10 percent of the purchase price of the contract or \$75, whichever is less, shall be deemed to be a reasonable cancellation fee for the purposes of subsection 2.~~

Sec. 8. ~~1. In addition to the powers conferred by NRS 690C.320 or any other law, the Commissioner may make an inquiry into the conduct of a provider who has issued or sold a home service contract as the Commissioner deems necessary to determine whether the provider is in compliance with the provisions of this chapter. In making such an inquiry, the Commissioner may request from such a provider any information concerning a holder to whom the provider has issued or sold a home service contract that the Commissioner deems to be relevant to the inquiry. Such a request may include, without limitation, a request that the provider:~~

~~(a) Furnish to the Commissioner any records in the possession of the provider concerning the holder of a home service contract; and~~

~~(b) Answer in writing any questions concerning the holder of a home service contract that the Commissioner may prepare.~~

~~2. Any request made by the Commissioner pursuant to subsection 1 must:~~

~~(a) Be in writing;~~

~~1. Specify the information being requested; and~~
~~2. State the time permitted for compliance, which must be not less than 10 days after the date the provider receives the request.~~

~~3. A provider who receives a request made by the Commissioner pursuant to subsection 1 shall furnish to the Commissioner any information specified in the request within the time permitted for compliance set forth in the request. If the request includes questions prepared by the Commissioner, the provider shall furnish to the Commissioner a complete written response to each question which addresses all aspects of the question and which is based on the facts as then known by the provider.~~

~~4. Nothing in this section limits:~~

~~(a) The power of the Commissioner to conduct examinations pursuant to NRS 690C.320; or~~

~~(b) The duty of a provider to comply with the requirements set forth in NRS 690C.320.~~ (Deleted by amendment.)

Sec. 9. NRS 690C.010 is hereby amended to read as follows:

690C.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 690C.020 to 690C.080, inclusive, ~~and [section]~~ sections 3.5 and 4 of this act have the meanings ascribed to them in those sections.

Sec. 10. NRS 690C.050 is hereby amended to read as follows:

690C.050 "Goods" means all tangible personal property, whether movable at the time of purchase or a fixture, that is used primarily for personal, family or household purposes. *The term includes, without limitation, a household appliance, system or component.*

Sec. 11. NRS 690C.070 is hereby amended to read as follows:

690C.070 "Provider" means a person who is *contractually or financially* obligated to a holder pursuant to the terms of a service contract to *service*, repair, replace or perform maintenance on, or to indemnify *or reimburse* the holder for *any part of* the costs of *servicing*, repairing, replacing or performing maintenance on, goods.

Sec. 12. NRS 690C.080 is hereby amended to read as follows:

690C.080 1. "Service contract" means a contract ~~[pursuant to which a provider, in exchange]~~ or agreement for a separately stated consideration ~~[;]~~ or for a specific duration pursuant to which a provider is obligated ~~[for a specified period]~~ to a holder to *service*, repair, replace or perform maintenance on, or indemnify or reimburse the holder for *any part of* the costs of *servicing*, repairing, replacing or performing maintenance on, goods that are described in the service contract and which have an operational or structural failure as a result of a defect in materials, workmanship or normal wear and tear, including, without limitation:

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

(b) A contract that provides for the repair, replacement or maintenance of goods for damages that result from power surges or accidental damage from handling ~~[;]~~ ; and

(c) A home service contract.

2. 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. 13. NRS 690C.100 is hereby amended to read as follows:

690C.100 1. The provisions of this title do not apply to:

(a) A warranty;

(b) A maintenance agreement;

(c) A service contract provided by a public utility on its transmission device if the service contract is regulated by the Public Utilities Commission of Nevada;

(d) A service contract sold or offered for sale to a person who is not a consumer;

(e) A service contract for goods if the purchase price of the goods is less than \$250; or

(f) A service contract issued, sold or offered for sale by a vehicle dealer on vehicles sold by the dealer, if the dealer is licensed pursuant to NRS 482.325 and the service contract obligates either the dealer or the manufacturer of the vehicle, or an affiliate of the dealer or manufacturer, to provide all services under the service contract.

2. The sale of a service contract ~~to a consumer~~ pursuant to this chapter ~~or to a person who is not a consumer~~ any other third party does not constitute the business of insurance for the purposes of 18 U.S.C. §§ 1033 and 1034.

3. As used in this section:

(a) "Maintenance agreement" means a contract ~~[for a limited period]~~ that provides only for scheduled maintenance.

(b) "Warranty" means a warranty provided solely by a manufacturer, importer or seller of goods for which the manufacturer, importer or seller did not receive separate consideration and that:

(1) Is not negotiated or separated from the sale of the goods;

(2) Is incidental to the sale of the goods; and

(3) Guarantees to indemnify the consumer for defective parts, mechanical or electrical failure, labor or other remedial measures required to repair or replace the goods.

Sec. 14. NRS 690C.160 is hereby amended to read as follows:

690C.160 1. A provider who wishes to issue, sell or offer for sale service contracts in this state must submit to the Commissioner:

(a) A registration application on a form prescribed by the Commissioner;

(b) Proof that the provider has complied with the requirements for financial security set forth in NRS 690C.170;

(c) A copy of each type of service contract the provider proposes to issue, sell or offer for sale;

(d) The name, address and telephone number of each administrator with whom the provider intends to contract;

(e) A fee of \$2,000 and all applicable fees required pursuant to NRS 680C.110 to be paid at the time of application; and

(f) The following information for each controlling person:

(1) Whether the person, in the last 10 years, has been:

(I) Convicted of a felony or misdemeanor of which an essential element is fraud;

(II) Insolvent or adjudged bankrupt;

(III) Refused a license or registration as a service contract provider or had an existing license or registration as a service contract provider suspended or revoked by any state or governmental agency or authority; or

(IV) Fined by any state or governmental agency or authority in any matter regarding service contracts; and

(2) Whether there are any pending criminal actions against the person other than moving traffic violations.

2. In addition to the fee required by subsection 1, a provider must pay a fee of \$25 for each type of service contract the provider files with the Commissioner.

3. ~~Each year,~~ **Every 2 years**, not later than the anniversary date of his or her certificate of registration, a provider must pay the ~~annual~~ **biennial** fee required pursuant to NRS 680C.110 in addition to any other fee required pursuant to this section.

4. A certificate of registration is valid for 2 years after the date the Commissioner issues the certificate to the provider. A provider may renew his or her certificate of registration if, not later than 60 days before the certificate expires, the provider submits to the Commissioner:

(a) An application on a form prescribed by the Commissioner;

(b) A fee of \$2,000 and, in addition to any other fee or charge, all applicable fees required pursuant to subsection 3; and

(c) The information required by paragraph (f) of subsection 1:

(1) If an existing controlling person has had a change in any of the information previously submitted to the Commissioner; or

(2) For a controlling person who has not previously submitted the information required by paragraph (f) of subsection 1 to the Commissioner.

5. All fees paid pursuant to this section are nonrefundable.

6. Each application submitted pursuant to this section, including, without limitation, an application for renewal, must:

(a) Be signed by an executive officer, if any, of the provider or, if the provider does not have an executive officer, by a controlling person of the provider; and

(b) Have attached to it an affidavit signed by the person described in paragraph (a) which meets the requirements of subsection 7.

7. Before signing the application described in subsection 6, the person who signs the application shall verify that the information provided is accurate to the best of his or her knowledge.

Sec. 15. 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 to provide for financial security:

(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:

(1) Be issued by an insurer which is licensed, registered or otherwise authorized to transact insurance in this state or pursuant to the provisions of chapter 685A of NRS.

(2) Contain a provision prohibiting the insurer from terminating the policy until a notice of termination has been mailed or delivered to the Commissioner at least 60 days prior to the termination of the policy. Any such termination shall not reduce the responsibility of the insurer for service contracts issued by the provider prior to the effective date of termination.

(b) Maintain a reserve account in this State and deposit with the Commissioner security as provided in this subsection. The reserve account must contain at all times an amount of money equal to at least 40 percent of the ~~unearned~~ gross consideration received by the provider, **less claims paid**, for any unexpired service contracts ~~which are sold and cover goods in this State~~. The reserve account must be kept separate from the operating accounts of the provider and must be clearly identified as the “(Provider's Name) Nevada Service Contracts Funded Reserve Account.” The Commissioner may examine the reserve account at any time. The provider shall also deposit with the Commissioner security in an amount that is equal to \$25,000 or 10 percent of the ~~unearned~~ gross consideration received

by the provider , *less claims paid*, for any unexpired service contracts ~~which are~~ *which are sold and cover goods in this State*, whichever is greater. The security must be:

(1) A surety bond issued by a surety company authorized to do business in this State;

(2) Securities of the type eligible for deposit pursuant to NRS 682B.030;

(3) Cash;

(4) An irrevocable letter of credit issued by a financial institution approved by the Commissioner; or

(5) In any other form prescribed by the Commissioner.

(c) 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, the parent company must guarantee to carry out the duties of the provider under any service contract issued or sold by the provider.

2. A provider shall not use any money in a reserve account described in paragraph (b) of subsection 1 for any purpose other than to pay an obligation of the provider under an unexpired service contract ~~in this State~~.

3. A provider shall maintain the financial security required by subsection 1 until:

(a) The provider ceases doing business in this State; and

(b) The provider has performed or otherwise satisfied all liabilities and obligations under all unexpired service contracts issued by the provider ~~in this State~~.

4. If the certificate of registration of a provider has not expired and the provider fails to maintain the financial security required by subsection 1, including, without limitation, if the financial security is cancelled or lapses, the provider shall not issue or sell a service contract on or after the effective date of such failure until the provider submits to the Commissioner proof satisfactory to the Commissioner that the provider is in compliance with subsection 1.

Sec. 16. NRS 690C.250 is hereby amended to read as follows:

690C.250 1. A service contract is void and a provider shall refund to the holder the purchase price of the service contract if the holder has not made a claim under the service contract and the holder returns the service contract to the provider:

(a) Within 20 days after the date the provider ~~emails~~ *sends* a copy of the service contract to the holder;

(b) Within 10 days after the purchaser receives a copy of the service contract if the provider furnishes the holder with the copy at the time the contract is purchased; or

(c) Within a longer period specified in the service contract.

2. The right of a holder to return a service contract pursuant to this section applies only to the original purchaser of the service contract.

3. A service contract must include a provision that clearly states the right of a holder to return a service contract pursuant to this section.

4. The provider shall refund to the holder the purchase price of the service contract within 45 days after a service contract is returned pursuant to subsection 1.

If the provider fails to refund the purchase price within that time, the provider shall pay the holder a penalty of 10 percent of the purchase price for each 30-day period or portion thereof that the refund and any accrued penalties remain unpaid.

~~5. Except as otherwise provided in this subsection, if the purchase price of a service contract is financed and the loan has not been paid in full by the holder, the provider may provide a refund to the holder pursuant to this section by sending the refund to the lender. The amount of refund that may be sent to the lender must not exceed the outstanding balance of the holder on the loan.~~

Sec. 17. NRS 690C.260 is hereby amended to read as follows:

690C.260 1. A service contract must:

(a) Be written in language that is understandable and printed in ~~[a typeface]~~ *at least 10-point Courier font or other similar font* that is easy to read.

(b) Indicate that it is insured by a contractual liability insurance policy if it is so insured, and include the name and address of the issuer of the policy or that it is backed by the full faith and credit of the provider if the service contract is not insured by a contractual liability insurance policy.

(c) Include the amount of any deductible *or fee for services* that the holder is required to pay.

(d) Include the name and address of the provider and, if applicable:

(1) The name and address of the administrator; and

(2) The name of the holder, if provided by the holder.

➤ The names and addresses of such persons are not required to be preprinted on the service contract and may be added to the service contract at the time of the sale.

(e) Include the purchase price of the service contract. The purchase price must be determined pursuant to a schedule of fees established by the provider. The purchase price is not required to be preprinted on the service contract and may be negotiated with the holder and added to the service contract at the time of sale.

(f) Include a description of the goods covered by the service contract.

(g) Specify the duties of the provider and any limitations, exceptions or exclusions.

(h) If the service contract covers a motor vehicle, indicate whether replacement parts that are not made for or by the original manufacturer of the motor vehicle may be used to comply with the terms of the service contract.

(i) Include any restrictions on transferring or renewing the service contract.

(j) Include the terms, restrictions or conditions for cancelling the service contract before it expires and the procedure for cancelling the service contract. The conditions for cancelling the service contract must include, without limitation, the provisions of NRS 690C.270.

(k) Include the duties of the holder under the contract, including, without limitation, the duty to protect against damage to the goods covered by the service contract or to comply with any instructions included in the owner's manual for the goods.

(l) Indicate whether the service contract authorizes the holder to recover consequential damages.

(m) Indicate whether any defect in the goods covered by the service contract existing on the date the contract is purchased is not covered under the service contract.

(n) Indicate that services will be performed upon the making of a claim for services, without any requirement that additional forms or applications to request services be filed before the rendition of services.

(o) If the service contract requires the holder to obtain prior approval before the provision of services, include a procedure for obtaining such approval, which

1 *must include, without limitation, a toll-free telephone number through which the*
2 *holder may obtain such approval.*

3 *(p) If the service contract includes the provision of emergency services*
4 *performed outside of normal business hours, include procedures for obtaining*
5 *such emergency services.*

6 *(q) If the service contract is a home service contract ~~and the service contract~~*
7 *~~does not~~ that is not ~~include the provision of an emergency services,~~ service*
8 *contract, include the following statement: "This is not an emergency service*
9 *contract and services will be provided as soon as commercially and practically*
10 *feasible."*

11 2. A provider shall not allow, make or cause to be made a false or misleading
12 statement in any of the service contracts of the provider or intentionally omit a
13 material statement that causes a service contract to be misleading. The
14 Commissioner may require the provider to amend any service contract that the
15 Commissioner determines is false or misleading.

16 **Sec. 18.** NRS 690C.270 is hereby amended to read as follows:

17 690C.270 1. No service contract that has been in effect for at least 70 days
18 may be cancelled by the provider before the expiration of the agreed term or 1 year
19 after the effective date of the service contract, whichever occurs first, except on any
20 of the following grounds:

21 (a) Failure by the holder to pay an amount when due;

22 (b) Conviction of the holder of a crime which results in an increase in the
23 service required under the service contract;

24 (c) Discovery of fraud or material misrepresentation by the holder in obtaining
25 the service contract, or in presenting a claim for service thereunder;

26 (d) Discovery of:

27 (1) An act or omission by the holder; or

28 (2) A violation by the holder of any condition of the service contract,
29 ➤ which occurred after the effective date of the service contract and which
30 substantially and materially increases the service required under the service
31 contract; or

32 (e) A material change in the nature or extent of the required service or repair
33 which occurs after the effective date of the service contract and which causes the
34 required service or repair to be substantially and materially increased beyond that
35 contemplated at the time that the service contract was issued or sold.

36 2. No cancellation of a service contract *by a provider* may become effective
37 until at least 15 days after the notice of cancellation is mailed to the holder.