

# Service Company Supplemental Proposed Rulemaking

Substantive Changes to be made

# Categories of Comments

1. Financial Reporting
2. Reasonable Time
3. Denial of Claim Appeal
4. Items not specifically excluded are covered
5. Provider definition unnecessary
6. Application Contact Person
7. Application types of items to be covered
8. Application - Owners
9. List of subcontractors
10. Applicability of the Insurance Code
11. Regulatory Catch-all
12. No paper copy of permit
13. Permit renewal
14. Renewal Form should be limited to changes only
15. Late renewal fee
16. Contract holder financial responsibility re: subcontractors
17. Service Company's financial responsibility
18. Dates of Coverage
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20. Department exceeds its authority
21. Changes to forms on a going forward basis

# Financial Reporting (contd.)

R20-6-407(C)(2) Application. The application shall contain the following information:

I. A summary of the applicant's financial position:

Change will be made to language:

I. A summary of the applicant's financial position including current assets, current liabilities, equity, and income:

# Financial Reporting (contd.)

R20-6-407(C)(3) Application attachments. The applicant shall include the following as part of the application:

a. A copy of the service company's most recent financial statement, including an income statement and a balance sheet, verified by a certified public accountant.

Change will be made to language:

a. A copy of the applicant's most recent financial statement, sworn to and certified by the owner, duly elected officer or a CPA.

# Financial Reporting (contd.)

R20-6-407(E). Service company permit renewal and late-renewal.

3. Renewal attachments. The service company shall attach the following to the renewal:

a. A copy of the service company's financial statement as of the end of the service company's most recently completed fiscal year, including an income statement and a balance sheet, verified by a certified public accountant.

Change will be made to language:

a. A copy of the service company's financial statement as of the end of the service company's most recently completed fiscal year, sworn to and certified by the owner, duly elected officer or a CPA.

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# Reasonable time

**B. Definitions.** The definitions in A.R.S. § 20-1095 apply to this rule.

7. "Reasonable time" or "Reasonable period of time:"

a. As used in A.R.S. § 20-1095.06(C)(2), means at the time of purchase or mailed or electronically delivered but not more than two business days after the purchase date of the contract. If a service company mails the contract, it can establish proof of mailing by USPS certified mail or first class mail using intelligent barcode or another similar tracking method used or approved by the USPS. If a service company electronically delivers the contract it must be delivered consistent with the requirements of Title 44, Chapter 26.

Change will be made to language:

a. As used in A.R.S. § 20-1095.06(C)(2), means at the time of purchase or mailed or electronically delivered but not more than ten business days after the purchase date of the contract. If a service company mails the contract, it can establish proof of mailing by USPS certified mail or first class mail using intelligent barcode or another similar tracking method used or approved by the USPS. If a service company electronically delivers the contract it must be delivered consistent with the requirements of Title 44, Chapter 26.

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# Denial of claim appeal

R20-6-407(G). Filing of forms.

2. Requirements for approval. No service contract form shall be approved unless it:

f. Notifies the contract holder that the denial of a claim can be appealed if the contract holder can produce a home inspection report, maintenance records, or other evidence that show the contract holder was not aware, at the time of contracting, of any preexisting condition that would be the basis for the denial of the claim;

Change will be made to language:

f. Notifies the contract holder that the denial of a claim can be appealed if the contract holder can produce a home inspection report or maintenance records;

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# Items not specifically excluded are covered

R20-6-407(G) Filing of forms.

2. Requirements for approval. No service contract form shall be approved unless it:

b. Itemizes each of the systems, products and appliances covered by the contract and, in bold-faced type, preferably in a larger font, the specific items or components of those systems, products, and appliances which are excluded from coverage. Any item or component not specifically excluded from a covered system, product or appliance is covered;

Change will be made to language:

b. Itemizes each of the systems, products and appliances covered by the contract and, in bold-faced type, preferably in a larger font, the specific items or components of those systems, products, and appliances which are excluded from coverage;

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# Application types of items to be covered

R20-6-407(C)(2) Application. The application shall contain the following information:

j. The types of items the applicant intends to cover under its service contracts;

Change to language will be made: Application

j. The lines of business the applicant intends to cover under its service contracts;

R20-6-407(E) Service company permit renewal and late-renewal.

2. Renewal form. A service company shall use the renewal form designated by the Division. The renewal shall contain the following information:

d. Any changes to the lines of business the service company intends to cover under its service contracts; and

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# Application - Owners (contd)

R20-6-407(C) **Application for a service company permit.**

3. Application attachments. The applicant shall include the following as part of the application:

e. A list of any actions taken against the applicant and a list of actions taken against any of the owners, officers, managers, or directors of the applicant in any jurisdiction by a regulatory agency or state attorney general.

Change will be made to language:

e. A list of any actions taken against the applicant in any jurisdiction by a regulatory agency or state attorney general.

R20-6-407(E) Service company permit renewal and late-renewal.

3. Renewal attachments. The service company shall attach the following to the renewal:

e. Any actions taken against the service company in any jurisdiction by a regulatory agency or state attorney general not previously reported to the Division.

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# List of subcontractors

R20-6-607(C)(3) Application attachments. The applicant shall include the following as part of the application:

d. A list of subcontractors who are under common ownership or control or are affiliated with the applicant. If required by the type of work being performed, all subcontractors must be licensed.

This language will be removed. The following definition will be added:

9. "Subcontractor" means a person or business having a contractual relationship with a service company to provide work or services which a service company has agreed to perform under a service contract. If required by the type of work being performed, all subcontractors must be licensed.

# List of subcontractors (contd.)

R20-6-407(E) Service company permit renewal and late-renewal.

3. Renewal attachments. The service company shall attach the following to the renewal:

e. Any additions or deletions to the subcontractors that are under common ownership or control or are affiliated with the service company since the last report to the Division. If required by the type of work being performed, all subcontractors must be licensed.

This language will be removed.

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# Pro rata refund upon cancellation notice

R20-6-407(G) Filing of forms.

2. Requirements for approval. No service contract form shall be approved unless it:

i. States that the administrative expenses may not exceed \$75 or ten percent of the purchase price of the service contract, whichever is less, when providing a pro rata refund upon cancellation of the service contract before the end of the coverage period of the service contract.

Change to language:

i. If providing a pro rata refund upon cancellation of the service contract before the end of the coverage period of the service contract, states that the administrative expenses may not exceed \$75 or ten percent of the purchase price of the service contract, whichever is less.

In researching to confirm the session language was not added to the statute I came across [ARS 20-1095.10](#) which includes the following:

A. This article applies to any home warranty or home protection contract, and to service contracts covering motor vehicles.

It would appear that ARS 20-1095 and the proposed rule may not apply to other types of service contracts not listed in A - the other 2 of 5 types of contracts that Cary and Erica referred to in the oral hearing.

# Suggested Statutory Change

## 20-1095.02. Exemptions; definition

A. This article, except for section 20-1095.09, does not apply to the following:

5. A service company that is in the business of selling or servicing any one of the following, if the service contract only covers the actual item the service company sells:

(a) Appliances or electronic equipment, or both.

(b) Residential heating, cooling or air conditioning systems.

**(c) Mechanical equipment, other than motor vehicles or their components.**

**This requires sellers of tires (Big O, Discount etc) who sell road hazard or tire warranties to become permitted,**