



Title: New Jersey Senate Bill 902

Subject: Service Contract Amendments

Summary:

New Jersey Senate Bill 902 amends the service contract statute. SCIC been working with the bill sponsor and the Division of Consumer Affairs in the Attorney' General's Office to make amendments. Many, but not all, of the SCIC's suggestions are reflected this version of Senate Bill 902.

The bill defines "regulated entity" to mean a provider or an administrator.

Current law restricts providers from using certain insurance words in their name. This bill also prohibits administrators from using such words in their name. It also prohibits providers and administrators from using such words in its products, descriptions of products, advertisements, or any other materials. The bill provides an exception for using the terms to indicate that service contracts do not constitute insurance, guaranties, or warranties.

This bill requires that a provider or administrator who uses the terms "guaranty" or "warranty" in any materials must clearly and conspicuously disclose that the service contract "is not in the nature of a guaranty or warranty as that term is legally defined and commonly understood."

The term "extended warranty" can only be used to describe a product if it "at a minimum substantially extends the coverages of an original warranty and the provider or administrator accurately sets forth the terms and source of the original warranty upon which the product is based, clearly and conspicuously identifies any deviations from the original warranty and clearly and conspicuously discloses that the product is a service contract offered under P.L. 2013, c.197 (C.56:12-87 et al.)."

The bill would require those providers who demonstrate financial responsibility via a funded reserve to additionally "maintain a bond, having a value of not less than five percent of the gross consideration received per annum, less claims paid, on the sale of the service contract for all service contracts issued and in force, but not less than \$25,000." Last year's version of this bill had required a bond for all providers.

The bill prohibits the administration of service contacts in New Jersey unless either the administrator complies with financial responsibility requirements or the provider's means of

assuring financial responsibility is applies to indemnify an administrator's conduct with respect to administering the service contract.

The bill adds that any person who provides or administers a non-compliant service contract shall be jointly and severally liable for all covered contractual obligations arising under the terms of such non-compliant contract or under the terms of any service contract issued at a time when the provider of the contract is non-compliant.

The bill adds a new section requiring:

"A regulated entity shall disclose, in a manner and form prescribed by the director the following:

- a. the identities of all of the principals of the regulated entity that issue, order for sale, sell or administer service contracts in the United States;
- b. information regarding any litigation or enforcement matters concerning service contracts filed or prosecuted during the prior five years in which a principal identified in subsection a. of this section was named or involved; and
- c. information concerning the provider's business operations, which shall include the total amounts collected in providers fees and the total amounts paid out in claims or charges for services provided under the contract."

The bill also adds that "A service contract that is not offered by a public utility but which is advertised by any entity, including an entity affiliated with a public utility, using a public utility's trade name, or other identifying information, shall not qualify as exempt," and provides new advertising disclosure requirements for these entities.

The bill adds numerous registration requirements for regulated entities that include: certain disclosures, utilization of a prescribed form for registration and renewal, an annual renewal deadline of July 1, and a \$300 fee per registration and annual renewal. The bill also adds fees for failing to register or timely renew registration. Last year's version of the bill had required audited financial statements.

The bill authorizes the Division to publish any non-confidential information regarding any regulated entity on a publicly accessible webpage.

The bill also adds renewal requirements for service contracts where the term is for a "specified period of 12 months or longer and that automatically renews for a specified period of more than one month." The bill requires that a provider offering such contracts provide "written or electronic" notification of the automatic renewal provision to a consumer. It also requires notification be provided 30-60 days before the cancellation deadline and shall clearly and conspicuously disclose that, unless cancelled, the contract automatically renews and methods by which the consumer may obtain further details on the automatic renewal provision and cancellation procedure. The bill requires that such contracts must at a minimum offer cancellation either 1) online and by mail, or 2) by phone. The bill also states that, "As part of the

provider's routine business practice, where the business has failed for any reason to comply with the provisions of this section, the contract holder may cancel the contract and receive the unearned portion of the contract subject to the automatic renewal provision, which amount shall be refunded as of the date on which the provider is notified of the error." A provider offering such auto renewal contracts must also provide written or electronic notice to the consumer between 30 and 60 days before making any change in cancellation procedures.

The bill requires that all cancellation requests be acknowledged within five business days of receipt and honored within ten business days of receipt. Moreover, the cancellation must be applied as of the day of receipt or, if permitted by the service contract, applied at the end of the holder's monthly billing cycle.

The bill gives the Director of the Division of Consumer Affairs in the Department of Law and Public Safety authority to promulgate rules and regulations to effectuate the provisions of this bill.

Effective Date: September 1, 2023

Date Filed:	01/27/2022	
Date/Type of Last Action:	01/27/2022	Introduced in the Senate, Referred to Senate Commerce Committee
	02/10/2022	Reported from Senate Committee with Amendments, 2nd Reading
	03/03/2022	Passed Senate (39-0)
	03/07/2022	Received in the Assembly, Referred to Assembly Consumer Affairs Committee
	05/05/2022	Scheduled for Consumer Affairs Committee session on 5/9
	06/16/2022	Passed Senate (38 – 0)
	08/05/2022	Signed by the governor