



HOUSE BILL No. 5011

October 19, 1999, Introduced by Rep. Frank and referred to the Committee on Regulatory Reform.

A bill to regulate service warranty contracts; to provide for certain consumer rights; to require certain notices; to provide for remedies; and to prescribe penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "extended service contract protection act".

3 Sec. 2. As used in this act:

4 (a) "Consumer" means an individual who purchases, uses,
5 maintains, or disposes of products and services that he or she
6 uses personally and not as part of a business or commercial
7 enterprise.

8 (b) "Extended service contract" or "contract" means a writ-
9 ten contract or agreement, for specific consideration, that
10 provides for the repair or replacement of covered components that

1 have failed due to a defect in material or workmanship or normal
2 wear and tear. An extended service contract does not include a
3 maintenance agreement or a manufacturer's warranty.

4 (c) "Extended service provider" or "provider" means a person
5 who issues, makes, provides, or offers to provide an extended
6 service contract to a consumer on behalf of a retailer. Provider
7 includes a retailer, manufacturer, or third party company. An
8 extended service provider does not include a person licensed
9 under the Forbes mechanical contractors act, 1984 PA 192,
10 MCL 338.971 to 338.988, electrical administrative act, 1956
11 PA 217, MCL 338.881 to 338.892, or 1929 PA 266, 338.901 to
12 338.917, or a provider as defined by section 102 of the Michigan
13 telecommunications act, 1991 PA 179, MCL 484.2102.

14 (d) "Retailer" means a person whose gross receipts from the
15 sale of goods and services to consumers are more than
16 \$1,000,000.00 annually.

17 Sec. 3. (1) This act applies to an extended service con-
18 tract entered into on or after the effective date of this act.

19 (2) An extended service contract shall be signed by the pro-
20 vider and include all of the following information:

21 (a) The product covered by the contract.

22 (b) A statement of the service provided under the extended
23 service contract.

24 (c) A step-by-step explanation of the procedure the consumer
25 must follow to obtain service under the contract.

26 (d) The specific time period covered by the contract.

1 (e) That the retailer will provide a written document
2 identifying the rights and obligations of the consumer under the
3 contract.

4 (f) That the contract is in addition to any manufacturer's
5 warranty.

6 (g) The person or persons responsible for servicing the pro-
7 duct and their legal name and address.

8 (h) That the consumer has up to 10 days to accept or decline
9 the extended service contract and, if accepted, up to 10 days to
10 rescind the contract.

11 (i) Whether the contract may be transferred and, if trans-
12 ferable, any conditions or limits on a transfer.

13 Sec. 4. (1) Except if the extended service contract pro-
14 vides for a longer period, within 10 days after the contract was
15 purchased by the consumer, the consumer may rescind the extended
16 service contract.

17 (2) Except as otherwise provided by this subsection, if the
18 consumer rescinds the contract under subsection (1), the consumer
19 shall receive a full refund of the contract price. If a claim
20 under the contract occurred within the 10-day time period, the
21 consumer shall receive a prorated refund, calculated at the
22 provider's option on either elapsed time or another objective
23 measure of use.

24 (3) The extended service provider may assess a rescission
25 fee under this section not to exceed the lesser of \$25.00 or 10%
26 of the purchase price of the contract.

1 (4) The extended service provider shall tender to the
2 consumer a refund required by this section within 30 business
3 days after the consumer rescinds the extended service contract.

4 Sec. 5. If a claim is made under an extended service con-
5 tract, the claim shall be considered valid unless the provider
6 notifies the consumer otherwise within 10 business days from the
7 date the provider receives the claim.

8 Sec. 6. (1) An extended service provider shall not enter
9 into an extended service contract in this state unless the
10 extended service provider has filed with the secretary of state a
11 registration form approved by the secretary of state and a bond
12 in an amount prescribed by this section or a liability policy
13 issued by an insurer authorized to do business in this state.
14 The bond required by this act shall be issued only by a surety
15 authorized to do business in this state.

16 (2) The amount of the bond shall be as follows:

17 (a) If the extended service provider has not previously sold
18 extended service contracts in this state, or if the provider's
19 gross receipts from the sale of extended service contracts in
20 this state during its last fiscal year did not exceed
21 \$100,000.00, \$25,000.00.

22 (b) For each additional \$100,000.00, or fraction thereof, of
23 the provider's gross receipts from the sale of extended service
24 contracts in this state, an additional \$25,000.00.

25 (3) The amount of the bond required under this section shall
26 not exceed \$500,000.00.

1 (4) The bond shall be issued in favor of the people of this
2 state for the benefit of a consumer injured by the failure of the
3 extended service provider to provide a refund to the consumer
4 after rescission of a contract as provided for under section 4.

5 Sec. 7. This act does not apply to new or used motor vehi-
6 cles, watercraft, or mobile homes.

7 Sec. 8. (1) A person who violates this act is responsible
8 for a state civil infraction and may be ordered to pay a civil
9 fine of not more than \$5,000.00 for each violation.

10 (2) In addition to any other remedy provided by law, a
11 person who suffers loss as a result of a violation of this act
12 may bring a civil action to recover actual damages, or \$250.00,
13 whichever is greater, together with costs and reasonable attorney
14 fees.