

SECOND REGULAR SESSION

HOUSE BILL NO. 2435

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ZERR.

6211H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 385.206, RSMo, and to enact in lieu thereof one new section relating to motor vehicle extended service contracts.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 385.206, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 385.206, to read as follows:

385.206. 1. It is unlawful for any person in or from this state to sell, offer, negotiate, or solicit a motor vehicle extended service contract with a consumer, other than the following:

(1) A motor vehicle dealer licensed under sections 301.550 to 301.573, along with its authorized employees offering the service contract in connection with the sale of either a motor vehicle or vehicle maintenance or repair services;

(2) A manufacturer of motor vehicles, as defined in section 301.010, along with its authorized employees;

(3) A federally insured depository institution, along with its authorized employees;

(4) A lender licensed and defined under sections 367.100 to 367.215, along with its authorized employees;

(5) A provider registered with the director and having demonstrated financial responsibility as required in section 385.202, along with its subsidiaries and affiliated entities, and authorized employees of the provider, subsidiary, or affiliated entity;

(6) A business entity producer or individual producer licensed under section 385.207;

(7) Authorized employees of an administrator under contract to effect coverage, collect provider fees, and settle claims on behalf of a registered provider, if the administrator is licensed as a business entity producer under section 385.207; or

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 (8) A vehicle owner transferring an existing motor vehicle extended service contract to
19 a subsequent owner of the same vehicle.

20 2. No administrator or provider shall use a dealer as a fronting company, and no dealer
21 shall act as a fronting company. For purposes of this subsection, "fronting company" means a
22 dealer that authorizes a third-party administrator or provider to use its name or business to evade
23 or circumvent the provisions of subsection 1 of this section.

24 3. Motor vehicle extended service contracts issued, sold, or offered in this state shall be
25 written in clear, understandable language, and the entire contract shall be printed or typed in
26 easy-to-read type and conspicuously disclose the requirements in this section, as applicable.

27 4. Motor vehicle extended service contracts insured under a reimbursement insurance
28 policy under subsection 3 of section 385.202 shall contain a statement in substantially the
29 following form: "Obligations of the provider under this service contract are guaranteed under
30 a service contract reimbursement insurance policy. If the provider fails to pay or provide service
31 on a claim within sixty days after proof of loss has been filed, the contract holder is entitled to
32 make a claim directly against the insurance company." A claim against the provider also shall
33 include a claim for return of the unearned provider fee. The motor vehicle extended service
34 contract also shall state conspicuously the name and address of the insurer.

35 5. Motor vehicle extended service contracts not insured under a reimbursement insurance
36 policy pursuant to subsection 3 of section 385.202 shall contain a statement in substantially the
37 following form: "Obligations of the provider under this service contract are backed only by the
38 full faith and credit of the provider (issuer) and are not guaranteed under a service contract
39 reimbursement insurance policy." A claim against the provider also shall include a claim for
40 return of the unearned provider fee. The motor vehicle extended service contract also shall state
41 conspicuously the name and address of the provider.

42 6. Motor vehicle extended service contracts shall identify any administrator, the provider
43 obligated to perform the service under the contract, the motor vehicle extended service contract
44 seller, and the service contract holder to the extent that the name and address of the service
45 contract holder has been furnished by the service contract holder.

46 7. Motor vehicle extended service contracts shall state conspicuously the total purchase
47 price and the terms under which the motor vehicle extended service contract is sold. The
48 purchase price is not required to be preprinted on the motor vehicle extended service contract and
49 may be negotiated at the time of sale with the service contract holder.

50 8. If prior approval of repair work is required, the motor vehicle extended service
51 contracts shall state conspicuously the procedure for obtaining prior approval and for making a
52 claim, including a toll-free telephone number for claim service and a procedure for obtaining
53 emergency repairs performed outside of normal business hours.

54 9. Motor vehicle extended service contracts shall state conspicuously the existence of
55 any deductible amount.

56 10. Motor vehicle extended service contracts shall specify the merchandise and services
57 to be provided and any limitations, exceptions, and exclusions.

58 11. Motor vehicle extended service contracts shall state the conditions upon which the
59 use of nonoriginal manufacturer's parts or parts of a like kind and quality or substitute service
60 may be allowed. Conditions stated shall comply with applicable state and federal laws.

61 12. Motor vehicle extended service contracts shall state any terms, restrictions, or
62 conditions governing the transferability of the motor vehicle extended service contract.

63 13. Motor vehicle extended service contracts shall state that subsequent to the required
64 free look period specified in subsection 14 of this section, a service contract holder may cancel
65 the contract at any time and the provider shall refund to the contract holder one hundred percent
66 of the unearned pro rata provider fee, less any claims paid. A reasonable administrative fee may
67 be surcharged by the provider in an amount not to exceed fifty dollars. All terms, restrictions,
68 or conditions governing termination of the service contract by the service contract holder shall
69 be stated. The provider of the motor vehicle extended service contract shall mail a written notice
70 to the contract holder within forty-five days of the date of termination. The written notice
71 required by this subsection may be included with any other correspondence required by this
72 section.

73 14. Motor vehicle extended service contracts shall contain a free look period that
74 requires every provider to permit the service contract holder to return the contract to the provider
75 within at least twenty business days of the mailing date of the motor vehicle extended service
76 contract or the contract date if the service contract is executed and delivered at the time of sale
77 or within a longer time period permitted under the contract. If no claim has been made under the
78 contract and the contract is returned, the contract is void and the provider shall refund to the
79 contract holder the full purchase price of the contract. A ten percent penalty of the amount
80 outstanding per month shall be added to a refund that is not paid within forty-five days of return
81 of the contract to the provider. If a claim has been made under the contract during the free look
82 period and the contract is returned, the provider shall refund to the contract holder the full
83 purchase price less any claims that have been paid. The applicable free-look time periods on
84 service contracts shall apply only to the original service contract purchaser.

85 15. Motor vehicle extended service contracts shall set forth all of the obligations and
86 duties of the service contract holder, such as the duty to protect against any further damage and
87 the requirement for certain service and maintenance.

88 16. Motor vehicle extended service contracts shall state clearly whether or not the service
89 contract provides for or excludes consequential damages or preexisting conditions.

90 **17. Motor vehicle extended service contracts shall state all parts that are not**
91 **covered by the service contract.**

92 **18. If the motor vehicle extended service contract provides the service contract**
93 **holder with a car rental during repairs, the rental period shall extend through the time**
94 **needed to acquire parts.**

95 **19.** The contract requirements of subsections 3 to 16 of this section shall apply to
96 motor vehicle extended service contracts made with consumers in this state. A violation of
97 subsections 3 to 16 of this section is a level two violation under section 374.049.

98 **[18.] 20.** A violation of subsection 1 or 2 of this section is a level three violation under
99 section 374.049.

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