

**Senate Study Bill 1223 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON COMMERCE BILL BY  
CHAIRPERSON CHAPMAN)

**A BILL FOR**

1 An Act modifying provisions applicable to certain service  
2 contract providers regulated by the commissioner of  
3 insurance, providing fees, making penalties applicable,  
4 making an appropriation, and including effective date  
5 provisions.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 523C.1, Code 2019, is amended to read as  
2 follows:

3 **523C.1 Definitions.**

4 As used in [this chapter](#), unless the context otherwise  
5 requires:

6 1. *“Commissioner”* means the commissioner of insurance.

7 ~~2. *“Custodial account”* means an account established by  
8 agreement between a licensed service company and a custodian  
9 under [section 523C.5](#).~~

10 ~~3. *“Custodial agreement”* means an agreement entered into  
11 between a licensed service company and a custodian under  
12 [section 523C.5](#).~~

13 ~~4. *“Custodian”* means an institution meeting the requirements  
14 established by the commissioner which institution has entered  
15 into a custodial agreement or reserve account agreement with a  
16 licensed service company.~~

17 ~~5. *“Depository”* means an institution designated by the  
18 commissioner as an authorized custodian for purposes of  
19 [sections 523C.5](#) and [523C.11](#).~~

20 ~~6. 2. *“Licensed service company”* means a service company  
21 which is licensed by the commissioner pursuant to [this chapter](#).~~

22 3. *“Maintenance agreement”* means a contract of any duration  
23 that provides for scheduled maintenance to property.

24 4. *“Motor vehicle”* means any self-propelled vehicle subject  
25 to registration under chapter 321.

26 5. *“Motor vehicle manufacturer”* means any of the following:

27 a. A person who manufactures or produces motor vehicles  
28 and sells the motor vehicles under the person’s trade name or  
29 label.

30 b. A person who is a wholly owned subsidiary of any person  
31 who manufactures or produces motor vehicles.

32 c. A person who holds a one hundred percent ownership  
33 interest in another person who manufactures or produces motor  
34 vehicles.

35 d. A person who does not manufacture or produce motor

1 vehicles, but for which motor vehicles are sold under the  
2 person's trade name or label.

3 e. A person who manufactures or produces motor vehicles,  
4 but the motor vehicles are sold under the trade name or label  
5 of another person.

6 f. A person who does not manufacture or produce motor  
7 vehicles, but who licenses the use of the person's trade name  
8 or label to another person pursuant to a written contract, who  
9 then sells motor vehicles under the trade name or label of the  
10 licensor.

11 6. "Motor vehicle service contract" means a contract or  
12 agreement given for consideration over and above the lease  
13 or purchase price of a new or used motor vehicle having a  
14 gross vehicle weight rating of less than sixteen thousand  
15 pounds, that undertakes to perform the repair, replacement,  
16 or maintenance of the motor vehicle, or indemnification for  
17 such repair, replacement, or maintenance, for the operation  
18 or structural failure of the motor vehicle due to a defect  
19 in materials, workmanship, or normal wear and tear, with or  
20 without additional provisions for the incidental payment  
21 of indemnity under limited circumstances, including but  
22 not limited to motor vehicle towing, rental, emergency road  
23 service, and road hazard protection. "Motor vehicle service  
24 contract" also includes a contract or agreement sold for  
25 separate consideration for a specific duration that provides  
26 for any of the following services or products:

27 a. The repair or replacement of motor vehicle tires or  
28 wheels that are damaged as a result of contact with road  
29 hazards, including but not limited to potholes, rocks, wood  
30 debris, metal parts, glass, plastic, curbs, or composite  
31 scraps.

32 b. The removal of dents or creases on a motor vehicle  
33 under a process that does not use paint or affect the existing  
34 paint finish, and without sanding, bonding, or replacing motor  
35 vehicle body panels.

1 c. The repair or replacement of motor vehicle windshields  
2 that are damaged as a result of contact with road hazards.

3 d. The replacement of motor vehicle keys or key fobs in the  
4 event that such device becomes inoperable, lost, or stolen.

5 e. Any other service or product approved by the  
6 commissioner.

7 7. "Premium" means the consideration paid to an insurer for  
8 a reimbursement insurance policy.

9 ~~7.~~ 8. "Record" means the same as defined in section 516E.1  
10 information stored or preserved in any medium, including in  
11 an electronic or paper format. A "record" includes but is  
12 not limited to documents, books, publications, accounts,  
13 correspondence, memoranda, agreements, computer files, film,  
14 microfilm, photographs, and audio or visual tapes.

15 9. "Reimbursement insurance policy" means a contractual  
16 liability insurance policy issued to a service company that  
17 either provides reimbursement to a service company under the  
18 terms of insured service contracts issued or sold by the  
19 service company or, in the event of nonperformance by the  
20 service company, pays, on behalf of the service company, all  
21 covered contractual obligations incurred by the service company  
22 under the terms of the insured service contracts issued or sold  
23 by the service company.

24 ~~8.~~ "Reserve account agreement" means an agreement entered  
25 into between a licensed service company and a depository under  
26 section 523C.11.

27 ~~9.~~ 10. "Residential service contract" means a contract or  
28 agreement between a residential customer and a service company  
29 which undertakes, for a predetermined fee and for a specified  
30 any period of time, to service, maintain, repair, or replace,  
31 or indemnify expenses for all or any part of the operational or  
32 structural components, appliances, or electrical, mechanical,  
33 plumbing, heating, cooling, or air-conditioning systems of  
34 residential property containing not more than four dwelling  
35 units in the state which fails due to normal wear or tear or

1 inherent defect. "Residential service contract" also includes  
2 a contract which provides for the service, repair, replacement,  
3 or maintenance of property for damage resulting from power  
4 surges, roof leakage, and accidental damage from repair work.

5 ~~10.~~ 12. "Service company" means a person who issues and  
6 performs, or arranges to perform, is contractually obligated to  
7 perform services pursuant to a motor vehicle service contract  
8 or residential service contract.

9 13. "Service contract" means a motor vehicle service  
10 contract or residential service contract.

11 14. "Warranty" means a statement made solely by the  
12 manufacturer, importer, or seller of property or services  
13 without consideration, that is not negotiated or separated from  
14 the sale of the product and is incidental to the sale of the  
15 product, and that guarantees indemnity for defective parts,  
16 mechanical or electrical breakdown, and labor or other remedial  
17 measures, such as repair or replacement of the property or  
18 repetition of services.

19 Sec. 2. Section 523C.2, Code 2019, is amended to read as  
20 follows:

21 **523C.2 License required.**

22 1. A person shall not issue a, offer for sale, or sell a  
23 motor vehicle service contract or residential service contract  
24 or undertake or arrange to perform services pursuant to a  
25 residential service contract in this state unless the person  
26 is a corporation or other form of organization approved by the  
27 commissioner by rule and is a licensed as a service company  
28 under this chapter.

29 2. The licensure requirements of this chapter shall not  
30 apply to any person who provides support services or works  
31 under the direction of a licensed service company in connection  
32 with the issuance, offer for sale, or sale of a service  
33 contract in this state, including but not limited to a person  
34 who provides marketing, administrative, or technical support.

35 Sec. 3. Section 523C.3, Code 2019, is amended to read as

1 follows:

2 **523C.3 Application for license.**

3 1. Application for a license as a service company shall  
4 be made to and filed with the commissioner on forms approved  
5 by the commissioner and shall include all of the following  
6 information:

7 a. The name and principal address of the applicant.  
8 b. The state of incorporation of the applicant.  
9 c. The name and address of the applicant's registered agent  
10 for service of process within Iowa.

11 d. A certificate of good standing for the applicant issued  
12 by the secretary of state and dated not more than thirty days  
13 prior to the date of the application.

14 e. Evidence of compliance with section 523C.5.

15 f. A copy of each motor vehicle service contract form to be  
16 used or issued in this state, if applicable.

17 g. A copy of each residential service contract form to be  
18 used or issued in this state, if applicable.

19 2. The application shall be accompanied by all of the  
20 following:

21 ~~a. A certificate of good standing for the applicant issued~~  
22 ~~by the secretary of state and dated not more than thirty days~~  
23 ~~prior to the date of the application.~~

24 ~~b. A surety bond, a copy of the receipt from the treasurer~~  
25 ~~of state that a cash deposit has been made, or a copy of a~~  
26 ~~eustodial agreement as provided in [section 523C.5](#).~~

27 ~~c. A copy of the most recent financial statement, including~~  
28 ~~balance sheets and related statements of income, of the~~  
29 ~~applicant, prepared in accordance with generally accepted~~  
30 ~~accounting principles, audited by a certified public accountant~~  
31 ~~and dated not more than twelve months prior to the date of the~~  
32 ~~application.~~

33 ~~d. An affidavit of an authorized officer of the service~~  
34 ~~company stating the number of contracts issued by the service~~  
35 ~~company in the preceding calendar year, and stating that the~~

1 ~~net worth of the service company satisfies the requirements of~~  
2 ~~section 523C.6.~~

3 ~~e.~~ a. A license fee in the amount of ~~two~~ five hundred fifty  
4 dollars.

5 b. If applicable, a fee in the amount of fifty dollars  
6 for each motor vehicle service contract form submitted in an  
7 application as provided in subsection 1, paragraph "f".

8 3. If the application contains the required information and  
9 is accompanied by the items set forth in subsection 2, ~~and if~~  
10 ~~the net worth requirements of section 523C.6 are satisfied, as~~  
11 ~~evidenced by the audited financial statements,~~ the commissioner  
12 shall issue the license. If the form of application is not  
13 properly completed or if the required accompanying documents  
14 are not furnished or in proper form, the commissioner shall  
15 not issue the license and shall give the applicant written  
16 notice of the grounds for not issuing the license. A notice  
17 of license denial shall be accompanied by a refund of fifty  
18 percent of the fee submitted with the application.

19 4. Fees collected under this section shall be deposited as  
20 provided in section 505.7 523C.24.

21 Sec. 4. Section 523C.4, Code 2019, is amended to read as  
22 follows:

23 **523C.4 License expiration and renewal.**

24 1. Each license issued under this chapter shall expire  
25 ~~on June 30 next~~ be valid for a period of one year and shall  
26 be renewed by August 31 of each year following the date of  
27 issuance. ~~If the service company maintains in force the surety~~  
28 ~~bond described in section 523C.5 and if its license is not~~  
29 ~~subject to or under suspension or revocation under section~~  
30 ~~523C.9, its license shall be renewed by the commissioner upon~~  
31 ~~receipt by the commissioner on or before the expiration date~~  
32 ~~of a renewal application accompanied by the items required by~~  
33 section 523C.3, subsection 2, paragraphs "b", "c", "d", and "e",  
34 ~~and section 523C.15.~~

35 2. An application for renewal shall include the information

1 required for an initial license as described in section 523C.3,  
2 subsection 1.

3 3. The renewal application shall be accompanied by all of  
4 the following:

5 a. A license renewal fee in the amount of five hundred  
6 dollars.

7 b. If applicable, a fee in the amount of three percent of  
8 the aggregate amount of payments the licensee received for the  
9 sale or issuance of residential service contracts in this state  
10 during the preceding fiscal year, provided that such fee shall  
11 be no less than one hundred dollars and no greater than fifty  
12 thousand dollars.

13 c. If applicable, a fee in the amount of fifty dollars  
14 for each motor vehicle service contract form submitted in a  
15 renewal application as provided in section 523C.3, subsection  
16 1, paragraph "f".

17 4. If the commissioner denies renewal of the license, the  
18 denial shall be in writing setting forth the grounds for denial  
19 and shall be accompanied by a refund of fifty percent of the  
20 license renewal fee.

21 5. In addition to the annual license renewal requirements  
22 as provided in this section, a licensee shall report to the  
23 commissioner any material change in information submitted by  
24 the licensee in its initial license application which has  
25 not been reported to the commissioner, including a change in  
26 contact information, a change in ownership, or any other change  
27 which substantially affects the licensee's operations in this  
28 state.

29 Sec. 5. Section 523C.5, Code 2019, is amended by striking  
30 the section and inserting in lieu thereof the following:

31 **523C.5 Financial responsibility — demonstration**  
32 **requirements.**

33 In order to assure the faithful performance of a service  
34 company's obligations to its contract holders in this state,  
35 a licensed service company shall demonstrate financial



1 responsibility to the commissioner by satisfying one of the  
2 following, as evidenced by the service company:

3 1. Insuring all motor vehicle service contracts and  
4 residential service contracts offered for sale in this state  
5 under a reimbursement insurance policy that complies with  
6 section 523C.6.

7 2. Doing both of the following:

8 a. Maintaining a funded reserve account for the service  
9 company's obligations under any issued and outstanding service  
10 contracts in this state, in an amount no less than forty  
11 percent of gross consideration received, less claims paid, for  
12 the sale of all service contracts issued and in force in this  
13 state. The reserve account shall be subject to examination and  
14 review by the commissioner.

15 b. Placing in trust with the commissioner a financial  
16 security deposit in an amount no less than five percent of  
17 the gross consideration received by the service company,  
18 less claims paid, for the sale of all motor vehicle service  
19 contracts and residential service contracts issued and in force  
20 in this state, but not less than twenty-five thousand dollars,  
21 consisting of one of the following:

22 (1) Cash.

23 (2) Securities of the type eligible for deposit by insurers  
24 authorized to transact business in this state.

25 (3) Certificates of deposit.

26 (4) Another form of security as prescribed by the  
27 commissioner by rule.

28 3. Doing both of the following:

29 a. Maintaining, on its own or together with a parent  
30 company, a minimum net worth or stockholders' equity of one  
31 hundred million dollars or more.

32 b. Upon request from the commissioner, providing either:

33 (1) A copy of the service company's financial statements.

34 (2) If the service company's financial statements are  
35 consolidated with those of its parent company, a copy of the

1 parent company's most recent form 10-K or form 20-F filed with  
2 the federal securities and exchange commission within the last  
3 calendar year, or if the parent company does not file with  
4 the federal securities and exchange commission, a copy of the  
5 parent company's audited financial statements showing a net  
6 worth of at least one hundred million dollars. If the service  
7 company's financial statements are consolidated with those of  
8 its parent company, the service company shall also provide a  
9 copy of a written agreement by the parent company guaranteeing  
10 the obligations of the service company under motor vehicle  
11 service contracts and residential service contracts issued and  
12 outstanding by the service company in this state.

13 Sec. 6. Section 523C.6, Code 2019, is amended by striking  
14 the section and inserting in lieu thereof the following:

15 **523C.6 Reimbursement insurance policy requirements — insurer**  
16 **qualifications.**

17 1. *Requirements.* A reimbursement insurance policy insuring  
18 a motor vehicle service contract or residential service  
19 contract issued, sold, or offered for sale in this state shall  
20 provide for all of the following:

21 a. The reimbursement insurance policy shall obligate the  
22 insurer that issued such policy to reimburse or pay on behalf  
23 of the service company any covered sums that the service  
24 company is legally obligated to pay according to the terms of  
25 the contract or, in the event of nonperformance by the service  
26 company, provide the service which the service company is  
27 legally obligated to perform according to the terms of the  
28 service contract, which shall be conspicuously stated in the  
29 reimbursement insurance policy.

30 b. The reimbursement insurance policy shall entitle a  
31 service contract holder to make a claim directly against the  
32 insurance policy if the service company fails to pay or provide  
33 service on a claim within sixty days after proof of loss is  
34 filed with the service company.

35 c. The insurer that issued a reimbursement insurance policy

1 shall be deemed to have received the premiums upon the payment  
2 of the total purchase price of the service contract by the  
3 service contract holder.

4     2. *Termination.* As applicable, an insurer that issued a  
5 reimbursement insurance policy shall not terminate the policy  
6 unless a written notice has been received by the commissioner  
7 and by each applicable service company. The notice shall  
8 fix the date of termination at a date no earlier than ten  
9 days after receipt of the notice by the commissioner. The  
10 termination of a reimbursement insurance policy shall not  
11 reduce the issuer's responsibility for a service contract  
12 issued by an insured service company prior to the date of  
13 termination.

14     3. *Indemnification or subrogation.* This section does  
15 not prevent or limit the right of an insurer that issued a  
16 reimbursement insurance policy to seek indemnification from or  
17 subrogation against a service company if the insurer pays or  
18 is obligated to pay a service contract holder sums that the  
19 service company was obligated to pay pursuant to the provisions  
20 of a service contract or pursuant to a contractual agreement.

21     4. *Premium tax liability.* Payments for the purchase price  
22 of a service contract by a service contract holder shall be  
23 exempt from premium tax. However, premiums shall be subject  
24 to premium tax.

25     5. *Qualifications of insurer.* An insurer issuing a  
26 reimbursement insurance policy under this chapter shall be  
27 authorized, registered, or otherwise permitted to transact  
28 business in this state and shall meet one of the following  
29 requirements:

30     a. At the time the policy is filed with the commissioner,  
31 and continuously thereafter, the insurer maintains surplus  
32 as to policyholders and paid-in capital of at least fifteen  
33 million dollars and annually files copies of the insurer's  
34 financial statements, national association of insurance  
35 commissioners annual statement, and actuarial certification, if

1 required and filed in the insurer's state of domicile.

2 *b.* At the time the policy is filed with the commissioner and  
3 continuously thereafter, the insurer does all of the following:

4 (1) Maintains surplus as to policyholders and paid-in  
5 capital of less than fifteen million dollars but at least ten  
6 million dollars.

7 (2) Demonstrates to the satisfaction of the commissioner  
8 that the insurer maintains a ratio of net written premiums,  
9 wherever written, to surplus as to policyholders and paid-in  
10 capital of not greater than three to one.

11 (3) Files copies annually of the insurer's financial  
12 statements, national association of insurance commissioners  
13 annual statement, and actuarial certification, if required and  
14 filed in the insurer's state of domicile.

15 Sec. 7. Section 523C.7, Code 2019, is amended by striking  
16 the section and inserting in lieu thereof the following:

17 **523C.7 Disclosure to service contract holders — contract**  
18 **form — required provisions.**

19 1. A motor vehicle service contract or residential service  
20 contract shall not be issued, sold, or offered for sale in this  
21 state unless the service company does all of the following:

22 *a.* Provides a receipt for the purchase of the service  
23 contract to the service contract holder.

24 *b.* Provides a copy of the service contract to the service  
25 contract holder within a reasonable period of time after the  
26 date of purchase of the service contract.

27 *c.* Provides a complete sample copy of the terms and  
28 conditions of the service contract to the service contract  
29 holder prior to the date of purchase. A service company may  
30 comply with this paragraph by providing the service contract  
31 holder with a complete sample copy of the terms or conditions  
32 of the service contract, or directing the service contract  
33 holder to an internet site containing a complete sample copy of  
34 the terms and conditions of the service contract.

35 2. A motor vehicle service contract or residential service

1 contract issued, sold, or offered for sale in this state shall  
2 comply with all of the following, as applicable:

3     *a.* A service contract shall be written in clear,  
4 understandable language in at least eight point font.

5     *b.* (1) A service contract insured by a reimbursement  
6 insurance policy as provided in section 523C.5, subsection 1,  
7 shall include a statement in substantially the following form:

8         Obligations of the service company under this service  
9 contract are guaranteed under a reimbursement insurance policy.  
10 If the service company fails to pay or provide service on a  
11 claim within sixty days after proof of loss has been filed with  
12 the service company, the service contract holder is entitled  
13 to make a claim directly against the reimbursement insurance  
14 policy.

15         (2) A service contract insured by a reimbursement insurance  
16 policy shall conspicuously state the name and address of the  
17 issuer of the reimbursement insurance policy for that service  
18 contract. A claim against a reimbursement insurance policy  
19 shall also include a claim for return of the unearned service  
20 company fee paid for the service contract.

21     *c.* A service contract not insured under a reimbursement  
22 insurance policy shall contain a statement in substantially the  
23 following form:

24         Obligations of the service company under this service  
25 contract are backed by the full faith and credit of the service  
26 company and you are not guaranteed under a reimbursement  
27 insurance policy.

28     *d.* A service contract shall state the name and address of  
29 the service company obligated to perform services under the  
30 contract, and shall conspicuously identify the service company,  
31 any third-party administrator, and the service contract holder  
32 to the extent that the name and address of the service contract  
33 holder has been furnished. The identities of such parties are  
34 not required to be printed on the contract in advance and may  
35 be added to the contract at the time of sale.

1 e. A service contract shall clearly state the total purchase  
2 price of the service contract and the terms under which the  
3 service contract is sold. The total purchase price is not  
4 required to be printed on the contract in advance and may be  
5 added to the contract at the time of sale.

6 f. If prior approval of repair work is required, a service  
7 contract shall conspicuously describe the procedure for  
8 obtaining prior approval and for making a claim, including a  
9 toll-free telephone number for claim service, and the procedure  
10 for obtaining emergency repairs performed outside of normal  
11 business hours.

12 g. A service contract shall clearly state the existence of  
13 any deductible amount.

14 h. A service contract shall specify the merchandise  
15 or services, or both, to be provided and any limitations,  
16 exceptions, or exclusions.

17 i. A service contract shall clearly state the conditions on  
18 which the use of substitute parts or services will be allowed.  
19 Such conditions shall comply with applicable state and federal  
20 laws.

21 j. A service contract shall clearly state any terms,  
22 restrictions, or conditions governing the transferability of  
23 the service contract.

24 k. A service contract shall clearly state the terms and  
25 conditions governing the cancellation of the contract prior  
26 to the termination or expiration date of the contract by the  
27 service company or the service contract holder. If the service  
28 company cancels the contract, the service company shall mail a  
29 written notice of termination to the service contract holder  
30 at least fifteen days before the date of the termination.  
31 Prior notice of cancellation by the service company is not  
32 required if the reason for cancellation is nonpayment of the  
33 purchase price, a material misrepresentation by the service  
34 contract holder to the service company or its administrator, or  
35 a substantial breach of duties by the service contract holder

1 relating to the covered product or its use. The notice of  
2 cancellation shall state the effective date of the cancellation  
3 and the reason for the cancellation. If a service contract  
4 is canceled by the service company for any reason other than  
5 nonpayment of the purchase price, the service company shall  
6 refund the service contract holder in an amount equal to one  
7 hundred percent of the unearned purchase price paid, less any  
8 claims paid. The service company may also charge a reasonable  
9 administrative fee in an amount no greater than ten percent of  
10 the total purchase price.

11 1. (1) A service contract shall permit the original  
12 service contract holder that purchased the contract to cancel  
13 and return the service contract within at least twenty days  
14 of the date of mailing the service contract to the service  
15 contract holder or within at least ten days after delivery of  
16 the service contract if the service contract is delivered at  
17 the time of sale of the service contract, or within a longer  
18 period of time as permitted under the service contract. If no  
19 claim has been made under the service contract prior to its  
20 return, the service contract is void and the full purchase  
21 price of the service contract shall be refunded to the service  
22 contract holder. A ten percent penalty shall be added each  
23 month to a refund that is not paid to a service contract holder  
24 within thirty days of the return of the service contract to the  
25 service company.

26 (2) If the service contract holder cancels the service  
27 contract outside of the applicable time as provided in  
28 subparagraph (1) or after a claim is made under the service  
29 contract, the service company shall refund the service  
30 contract holder in an amount equal to one hundred percent of  
31 the unearned purchase price paid, less any claims paid. The  
32 service company may also charge a reasonable administrative fee  
33 in an amount no greater than ten percent of the total purchase  
34 price.

35 m. A service contract shall set forth all of the obligations

1 and duties of the service contract holder, including but not  
2 limited to the duty to protect against any further damage,  
3 and the obligation to follow an owner's manual or any other  
4 required service or maintenance.

5 *n.* A service contract shall clearly state whether or not  
6 the contract provides for or excludes consequential damages  
7 or preexisting conditions, if applicable. A service contract  
8 may, but is not required to, cover damage resulting from rust,  
9 corrosion, or damage caused by a part or system which is not  
10 covered under the service contract.

11 *o.* A service contract shall clearly state the fee, if any,  
12 charged on the service contract holder for making a service  
13 call.

14 *p.* A service contract shall state the name and address of  
15 the commissioner.

16 Sec. 8. Section 523C.9, Code 2019, is amended to read as  
17 follows:

18 **523C.9 Suspension or revocation of license.**

19 ~~1. In addition to the license revocation provisions of~~  
20 ~~section 523C.5,~~ the The commissioner may suspend or revoke or  
21 refuse to renew the license of a service company for any of the  
22 following grounds:

23 ~~a.~~ 1. The service company violated a lawful order of the  
24 commissioner or any provision of this chapter.

25 ~~b.~~ 2. The service company failed to pay any final judgment  
26 rendered against it in this state within sixty days after the  
27 judgment became final.

28 ~~c.~~ 3. The service company has without just cause refused  
29 to perform or negligently or incompetently performed services  
30 required to be performed under its ~~residential~~ service  
31 contracts and the refusal, or negligent or incompetent  
32 performance has occurred with such frequency, as the  
33 commissioner determines, as to indicate the general business  
34 practices of the service company.

35 ~~d.~~ 4. The service company violated section 523C.13.



1 ~~e.~~ 5. The service company failed to ~~maintain the net worth~~  
2 ~~required by section 523C.6 demonstrate financial responsibility~~  
3 ~~pursuant to section 523C.5.~~

4 ~~f.~~ ~~The service company failed to maintain the reserve~~  
5 ~~account required by section 523C.11.~~

6 ~~g.~~ 6. The service company failed to maintain its corporate  
7 certificate of good standing with the secretary of state.

8 ~~2.~~ ~~If the license of a service company is terminated~~  
9 ~~under section 523C.5 because of failure to maintain bond, the~~  
10 ~~commissioner shall give written notice of termination to the~~  
11 ~~service company. The notice shall include the effective date~~  
12 ~~of the termination.~~

13 Sec. 9. Section 523C.12, Code 2019, is amended to read as  
14 follows:

15 **523C.12 Optional examination.**

16 The commissioner or a designee of the commissioner may  
17 make an examination of the books and records of a service  
18 company, including copies of contracts and records of claims  
19 and expenditures, and verify its assets, liabilities, and  
20 reserves. The actual costs of the examination shall be borne  
21 by the service company. The costs of an examination under this  
22 section shall not exceed an amount equal to ten percent of the  
23 service company's reported net income in the previous fiscal  
24 year.

25 Sec. 10. Section 523C.13, Code 2019, is amended to read as  
26 follows:

27 **523C.13 Prohibited acts or practices — penalty.**

28 1. A licensed service company which offers motor  
29 vehicle service contracts for sale in this state, or its  
30 representative, shall not, directly or indirectly, represent in  
31 any manner, whether by written solicitation or telemarketing, a  
32 false, deceptive, or misleading statement with respect to any  
33 of the following:

34 a. Statements regarding the service company's affiliation  
35 with a motor vehicle manufacturer or importer.

1 b. Statements regarding the validity or expiration of a  
2 warranty.

3 c. Statements regarding a motor vehicle service contract  
4 holder's coverage under a motor vehicle service contract,  
5 including statements suggesting that the service contract  
6 holder must purchase a new service contract in order to  
7 maintain coverage under the existing service contract or  
8 warranty.

9 2. The commissioner shall may adopt rules which regulate  
10 motor vehicle service contracts and residential service  
11 contracts to prohibit misrepresentation, false advertising,  
12 defamation, boycotts, coercion, intimidation, false statements  
13 and entries and unfair discrimination or practices. If the  
14 commissioner finds that a person has violated the rules adopted  
15 under this section, the commissioner may order any or all of  
16 the following:

17 ~~1-~~ a. Payment of a civil penalty of not more than one  
18 thousand dollars for each and every act or violation, but not  
19 to exceed an aggregate of ten thousand dollars, unless the  
20 person knew or reasonably should have known the person was in  
21 violation of this section, in which case the penalty shall be  
22 not more than five thousand dollars for each and every act or  
23 violation, but not to exceed an aggregate penalty of fifty  
24 thousand dollars in any one six-month period. The commissioner  
25 shall, if it finds the violations of this section were  
26 directed, encouraged, condoned, ignored, or ratified by the  
27 employer of such person, assess such penalty to the employer  
28 and not such person. Any civil penalties collected under this  
29 subsection shall be deposited as provided in section 505.7.

30 ~~2-~~ b. Suspension or revocation of the license of a person,  
31 if the person knew or reasonably should have known the person  
32 was in violation of this section.

33 Sec. 11. Section 523C.15, Code 2019, is amended to read as  
34 follows:

35 **523C.15 Annual report.**

1 A licensed service company that does not demonstrate  
2 financial responsibility by insuring service contracts under a  
3 reimbursement insurance policy as provided in section 523C.5,  
4 subsection 1, shall file with the commissioner an annual  
5 report ~~within ninety days of the close of its fiscal~~ no later  
6 than August 31 of each year. The annual report shall be in  
7 a form prescribed by the commissioner and contain all of the  
8 following:

9 1. A current financial statement including a balance  
10 sheet and statement of operations prepared in accordance with  
11 generally accepted accounting principles and certified by an  
12 independent certified public accountant.

13 2. The number of motor vehicle service contracts or  
14 residential service contracts issued during the preceding  
15 fiscal year, the number canceled or expired during the year,  
16 the number in effect at year end and the amount of ~~residential~~  
17 service contract fees received.

18 3. Any other information relating to the performance and  
19 solvency of the ~~residential~~ service company required by the  
20 commissioner.

21 Sec. 12. Section 523C.16, Code 2019, is amended to read as  
22 follows:

23 **523C.16 Exclusions.**

24 This chapter does not apply to any of the following:

25 1. A performance guarantee given by a builder of a residence  
26 or the manufacturer or seller or lessor of residential property  
27 if no identifiable charge is made for the guarantee.

28 2. A residential service contract, guarantee or warranty  
29 between a residential customer and a service company which will  
30 perform the work itself and not through subcontractors for  
31 the service, repair or replacement of residential property,  
32 appliances, or electrical, plumbing, heating, cooling or  
33 air-conditioning systems.

34 3. A contract between a service company issuing residential  
35 service contracts and a person who actually performs the

1 maintenance, repairs, or replacements of structural components,  
2 or appliances, or electrical, plumbing, heating, cooling, or  
3 air-conditioning systems, if someone other than the service  
4 company actually performs these functions.

5 4. A residential service contract, guarantee or warranty  
6 issued by a retail merchant to a retail customer, guaranteeing  
7 or warranting the repair, service or replacement of appliances  
8 or electrical, plumbing, heating, cooling or air-conditioning  
9 systems sold by said retail merchant.

10 5. A residential service contract, guarantee, or warranty  
11 issued by a manufacturer, third party, or retail company,  
12 covering the repair, maintenance, or replacement of residential  
13 property, individual appliances, and other individual items  
14 of merchandise marketed and sold by a retail company, in the  
15 ordinary course of business.

16 6. A motor vehicle service contract issued by the  
17 manufacturer or importer of the motor vehicle covered by  
18 the service contract or to any third party acting in an  
19 administrative capacity on the manufacturer's behalf in  
20 connection with that service contract.

21 7. A residential service contract involving residential  
22 property containing more than four dwelling units.

23 8. A warranty.

24 9. A motor vehicle service contract issued, offered for  
25 sale, or sold to any person other than a consumer.

26 10. A maintenance agreement.

27 Sec. 13. Section 523C.17, Code 2019, is amended to read as  
28 follows:

29 **523C.17 Lending institutions, ~~service companies, and~~**  
30 **~~insurance companies.~~**

31 A bank, savings association, insurance company, or other  
32 lending institution shall not require the purchase of a motor  
33 vehicle service contract or residential service contract as a  
34 condition of a loan or the sale of any property. A ~~service~~  
35 company or an insurer, either directly or indirectly, as a

1 ~~part of any real property transaction in which a residential~~  
2 ~~service contract will be issued, purchased, or acquired, shall~~  
3 ~~not require that a residential service contract be issued,~~  
4 ~~purchased, or acquired in conjunction with or as a condition~~  
5 ~~precedent to the issuance, purchase, or acquisition, by any~~  
6 ~~person, of a policy of insurance. A lending institution shall~~  
7 ~~not sell a residential service contract to a borrower unless~~  
8 ~~the borrower signs an affidavit acknowledging that the purchase~~  
9 ~~is not required. Violation of this section is punishable as~~  
10 provided in [section 523C.13](#).

11 Sec. 14. Section 523C.22, Code 2019, is amended to read as  
12 follows:

13 **523C.22 Claim procedures.**

14 A licensed service company shall promptly provide a written  
15 explanation to the ~~residential customer~~ service contract  
16 holder, describing the reasons for denying a claim or for the  
17 offer of a compromise settlement, based on all relevant facts  
18 or legal requirements and referring to applicable provisions of  
19 the ~~residential~~ service contract.

20 Sec. 15. NEW SECTION. **523C.24 Service company oversight**  
21 **fund.**

22 1. A service company oversight fund is created in the  
23 state treasury as a separate fund under the control of the  
24 commissioner. The fund shall consist of all moneys deposited  
25 in the fund pursuant to subsection 2.

26 2. The commissioner shall deposit in the service company  
27 oversight fund an amount equal to one-third of all licensing,  
28 examination, renewal, and inspection fees collected under this  
29 chapter, provided that the maximum amount of fees deposited  
30 in the fund each fiscal year shall not exceed five hundred  
31 thousand dollars. Any remaining fees collected under this  
32 chapter and not deposited in the service company oversight fund  
33 shall be deposited as provided in section 505.7.

34 3. Moneys in the service company oversight fund are  
35 appropriated to the commissioner for the administration and

1 enforcement of this chapter, and for establishing service  
2 contract consumer complaint, education, and outreach programs.

3 4. Notwithstanding section 12C.7, subsection 2, interest or  
4 earnings on moneys deposited in the service company oversight  
5 fund shall be credited to the fund. Notwithstanding section  
6 8.33, moneys credited to the fund shall not revert at the close  
7 of a fiscal year.

8 Sec. 16. REPEAL. Chapter 516E, Code 2019, is repealed.

9 Sec. 17. REPEAL. Sections 523C.8, 523C.8A, 523C.11,  
10 523C.14, and 523C.18, Code 2019, are repealed.

11 Sec. 18. EMERGENCY RULES. The commissioner of insurance  
12 may adopt emergency rules under section 17A.4, subsection 3,  
13 and section 17A.5, subsection 2, paragraph "b", to implement  
14 the provisions of this Act and the rules shall be effective  
15 immediately upon filing unless a later date is specified in the  
16 rules. Any rules adopted in accordance with this section shall  
17 also be published as a notice of intended action as provided  
18 in section 17A.4.

19 Sec. 19. EFFECTIVE DATE. This Act, being deemed of  
20 immediate importance, takes effect upon enactment.

21 EXPLANATION

22 The inclusion of this explanation does not constitute agreement with  
23 the explanation's substance by the members of the general assembly.

24 This bill modifies provisions applicable to certain service  
25 contract providers regulated by the commissioner of insurance.

26 Current Code chapter 516E requires service contract  
27 providers, or service companies, that offer motor vehicle  
28 service contracts for sale in Iowa to register annually  
29 with the commissioner, whereas service companies that offer  
30 residential service contracts must become licensed annually by  
31 the commissioner under Code chapter 523C.

32 The bill repeals Code chapter 516E, incorporates certain  
33 provisions regarding service companies offering motor vehicle  
34 service contracts in Code chapter 523C, thereby requiring any  
35 service company that sells motor vehicle service contracts

1 or residential service contracts in Iowa to obtain an annual  
2 license from the commissioner under Code chapter 523C, and  
3 makes other changes to provisions in Code chapter 523C.

4 The bill makes several changes to the definitions in Code  
5 section 523C.1. The bill removes definitions for "custodial  
6 account", "custodial agreement", "custodian", "depository",  
7 and "reserve account agreement". The bill adds definitions  
8 for "maintenance agreement", "motor vehicle", "motor vehicle  
9 manufacturer", "motor vehicle service contract", "premium",  
10 "reimbursement insurance policy", "service contract", and  
11 "warranty", and modifies existing definitions for "residential  
12 service contract" and "service contract", as described in the  
13 bill.

14 The bill provides that a person shall not issue, offer for  
15 sale, or sell a motor vehicle service contract or residential  
16 service contract in Iowa unless the person is licensed as  
17 a service company under Code chapter 523C. The licensure  
18 requirements do not apply to any person who provides support  
19 services or works under the direction of a licensed service  
20 company, including but not limited to a person who provides  
21 marketing, administrative, or technical support.

22 The bill specifies the information required in an  
23 application for a license under Code chapter 523C. In addition  
24 to such information, an application shall be accompanied  
25 by a license fee of \$500 and a fee of \$50 for each motor  
26 vehicle service contract form submitted in an application,  
27 if applicable. The commissioner shall issue a license if  
28 an application contains the required information and is  
29 accompanied by the required fees.

30 The bill provides that each license issued under Code  
31 chapter 523C shall be valid for a period of one year and shall  
32 be renewed by August 31 of each year following the date of  
33 issuance. An application for renewal shall require the same  
34 information required in an initial application, a \$500 license  
35 renewal fee, and other fees described in the bill that apply to

1 certain service companies. In addition to such requirements, a  
2 service company must report to the commissioner any material  
3 change in information provided in the initial application which  
4 has not been reported to the commissioner.

5 The bill replaces Code section 523C.5, which provides a  
6 surety bond requirement, with a new Code section which requires  
7 a service company to demonstrate financial responsibility to  
8 the commissioner. The service company shall satisfy this  
9 requirement by either insuring all of its service contracts  
10 offered for sale in Iowa under a reimbursement insurance  
11 policy that complies with the bill, maintaining a funded  
12 reserve account and placing in trust with the commissioner a  
13 financial security deposit, or maintaining a minimum net worth  
14 or stockholders' equity and providing certain information to  
15 the commissioner upon request, as described in the bill.

16 The bill replaces Code section 523C.6, which provides a net  
17 worth requirement, with a new Code section which establishes  
18 certain requirements for reimbursement insurance policies  
19 that insure service contracts offered for sale in Iowa. The  
20 requirements include provisions regarding insurer obligations,  
21 service contract holder rights, termination, indemnification  
22 or subrogation, insurance premium tax liability, and insurer  
23 qualifications, as described in the bill.

24 The bill replaces Code section 523C.7, which provides  
25 service contract filing and form requirements, with a new  
26 Code section which establishes certain requirements regarding  
27 disclosure to service contract holders, service contract forms,  
28 and provisions included in service contracts, as described in  
29 the bill.

30 The bill provides that the commissioner may suspend or  
31 revoke or refuse to renew the license of a service company if  
32 the service company violates a lawful order of the commissioner  
33 or any provision of Code chapter 523C, fails to pay a final  
34 judgment in Iowa within 60 days, indicates negligence,  
35 incompetence, or a refusal to perform services, performs any



1 prohibited acts or practices described in the bill, fails to  
2 demonstrate financial responsibility as provided in the bill,  
3 or fails to maintain its corporate certificate of good standing  
4 with the secretary of state.

5 The bill provides that the costs of a service company  
6 examination conducted at the discretion of the commissioner,  
7 which is paid by the service company, shall not exceed an  
8 amount equal to 10 percent of the service company's reported  
9 net income in the previous fiscal year.

10 The bill prohibits a licensed service company offering  
11 for sale in Iowa motor vehicle service contracts, or its  
12 representatives, from directly or indirectly representing a  
13 false, deceptive, or misleading statement with respect to  
14 certain statements regarding its affiliation with a motor  
15 vehicle manufacturer or importer, the validity or expiration  
16 of a warranty, or a service contract holder's coverage  
17 under a service contract, as described in the bill. The  
18 bill also allows the commissioner to adopt rules regulating  
19 service contract practices, any violation of which allows the  
20 commissioner to assess certain civil penalties or suspend or  
21 revoke a license, as described in the bill.

22 The bill provides that annual reporting requirements  
23 shall apply only to licensed service companies which do not  
24 demonstrate financial responsibility by insuring their service  
25 contracts under a reimbursement insurance policy. The annual  
26 report shall be filed with the commissioner no later than  
27 August 31 of each year and shall contain certain information  
28 described in the bill.

29 The bill excludes from regulation under Code chapter 523C,  
30 in addition to residential service contracts currently excluded  
31 under Code section 523C.16, certain motor vehicle service  
32 contracts currently excluded from regulation under Code chapter  
33 516E, residential service contracts involving residential  
34 property containing more than four dwelling units, warranties,  
35 motor vehicle service contracts issued or sold to any person

1 other than a consumer, and maintenance agreements.

2 The bill prohibits a lending institution from requiring the  
3 purchase of a motor vehicle service contract or residential  
4 service contract as a condition of a loan or the sale of  
5 any property. A violation of this provision allows the  
6 commissioner to assess certain civil penalties or suspend or  
7 revoke a license, as described in the bill.

8 The bill establishes new Code section 523C.24, which  
9 creates a service company oversight fund under the control  
10 of the commissioner. The fund shall consist of all moneys  
11 deposited in the fund pursuant to the bill. The bill directs  
12 the commissioner to deposit in the fund an amount equal  
13 to one-third of all licensing, examination, renewal, and  
14 inspection fees collected under Code chapter 523C, provided  
15 that the maximum amount deposited each fiscal year shall  
16 not exceed \$500,000. Any remaining fees collected and not  
17 deposited in the fund shall be deposited in the department  
18 of commerce revolving fund, pursuant to Code section  
19 505.7. Moneys in the oversight fund are appropriated to the  
20 commissioner for the administration and enforcement of Code  
21 chapter 523C, and for establishing service contract consumer  
22 complaint, education, and outreach programs. Interest or  
23 earnings on moneys deposited in the fund shall be credited to  
24 the fund. Moneys deposited in the fund shall not revert at the  
25 close of a fiscal year.

26 In addition to repealing Code chapter 516E, the bill  
27 repeals the following Code sections: 523C.8 (provisions  
28 regarding rebates and commissions), 523C.8A (prohibition  
29 against the issuance of residential service contracts without  
30 consideration), 523C.11 (reserve account requirements), 523C.14  
31 (provisions regarding rate review), and 523C.18 (criminal  
32 penalty no longer applicable). The bill makes conforming  
33 changes throughout Code chapter 523C.

34 The bill allows the commissioner to adopt emergency rules  
35 to implement the provisions of the bill. Any such rules shall

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1 be effective immediately upon filing unless a later date is  
2 specified and shall be published as a notice of intended  
3 action.  
4 The bill takes effect upon enactment.