

**Senate File 619 - Reprinted**

SENATE FILE 619  
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 595)  
(SUCCESSOR TO SSB 1223)

(As Amended and Passed by the Senate April 22, 2019)

**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 sold for separate consideration for a specific  
13 duration that undertakes to perform the repair, replacement,  
14 or maintenance of a motor vehicle, or indemnification for  
15 such repair, replacement, or maintenance, for the operation  
16 or structural failure of a motor vehicle due to a defect in  
17 materials, workmanship, or normal wear and tear, with or  
18 without additional provisions for the incidental payment  
19 of indemnity under limited circumstances, including but  
20 not limited to motor vehicle towing, rental, emergency road  
21 service, and road hazard protection. "Motor vehicle service  
22 contract" also includes a contract or agreement sold for  
23 separate consideration for a specific duration that provides  
24 for any of the following services or products:

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

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

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

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

3 e. Any other service or product approved by the  
4 commissioner.

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

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

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

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

25 ~~9.~~ 10. "Residential service contract" means a contract or  
26 agreement between a residential customer and a service company  
27 which undertakes, for a predetermined fee and for a specified  
28 any period of time, to service, maintain, repair, or replace,  
29 or indemnify expenses for all or any part of the operational or  
30 structural components, appliances, or electrical, mechanical,  
31 plumbing, heating, cooling, or air-conditioning systems of  
32 residential property containing not more than four dwelling  
33 units in the state which fails due to normal wear or tear or  
34 inherent defect. "Residential service contract" also includes  
35 a contract which provides for the service, repair, replacement,

1 or maintenance of property for damage resulting from power  
2 surges, roof leakage, and accidental damage.

3 ~~10.~~ 11. "Service company" means a person who issues and  
4 ~~performs, or arranges to perform,~~ is contractually obligated to  
5 perform services pursuant to a motor vehicle service contract  
6 or residential service contract.

7 12. "Service contract" means a motor vehicle service  
8 contract or residential service contract.

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

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

19 **523C.2 License required.**

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

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

33 Sec. 3. Section 523C.3, Code 2019, is amended to read as  
34 follows:

35 **523C.3 Application for license.**

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

5 a. The name and principal address of the applicant.

6 b. The state of incorporation of the applicant.

7 c. The name and address of the applicant's registered agent  
8 for service of process within Iowa.

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

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

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

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

17 2. The application shall be accompanied by all of the  
18 following:

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

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

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

31 ~~d. An affidavit of an authorized officer of the service~~  
32 ~~company stating the number of contracts issued by the service~~  
33 ~~company in the preceding calendar year, and stating that the~~  
34 ~~net worth of the service company satisfies the requirements of~~  
35 ~~[section 523C.6](#).~~

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

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

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

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

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

21 **523C.4 License expiration and renewal.**

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

33 2. An application for renewal shall include the information  
34 required for an initial license as described in section 523C.3,  
35 subsection 1.

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

3     a. A license renewal fee in the amount of five hundred  
4 dollars.

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

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

15     d. Information regarding the number of motor vehicle service  
16 contracts or residential service contracts issued during the  
17 preceding fiscal year, the number canceled or expired during  
18 the preceding fiscal year, the number in effect at the end of  
19 the preceding fiscal year, and the amount of service contract  
20 fees received during the preceding fiscal year.

21     4. If the commissioner denies renewal of the license, the  
22 denial shall be in writing setting forth the grounds for denial  
23 and shall be accompanied by a refund of fifty percent of the  
24 license renewal fee.

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

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

35     **523C.5 Financial responsibility — demonstration**



1 requirements.

2 In order to assure the faithful performance of a service  
3 company's obligations to its contract holders in this state,  
4 a licensed service company shall demonstrate financial  
5 responsibility to the commissioner by satisfying one of the  
6 following, as evidenced by the service company:

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

11 2. Doing both of the following:

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

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

26 (1) Cash.

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

29 (3) Certificates of deposit.

30 (4) A surety bond issued by an authorized surety company.

31 (5) Another form of security as prescribed by the  
32 commissioner by rule.

33 3. Doing both of the following:

34 a. Maintaining, on its own or together with a parent  
35 company, a minimum net worth or stockholders' equity of one

1 hundred million dollars or more.

2 *b.* Upon request from the commissioner, providing either:

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

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

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

20 **523C.6 Reimbursement insurance policy requirements — insurer**  
21 **qualifications.**

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

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

35 *b.* The reimbursement insurance policy shall entitle a

1 service contract holder to make a claim directly against the  
2 insurance policy if the service company fails to pay or provide  
3 service on a claim within sixty days after proof of loss is  
4 filed with the service company.

5     *c.* The insurer that issued a reimbursement insurance policy  
6 shall be deemed to have received the premiums upon the payment  
7 of the total purchase price of the service contract by the  
8 service contract holder.

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

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

26     4. *Premium tax liability.* Payments for the purchase price  
27 of a service contract by a service contract holder shall be  
28 exempt from premium tax. However, premiums shall be subject  
29 to premium tax.

30     5. *Qualifications of insurer.* An insurer issuing a  
31 reimbursement insurance policy under this chapter shall be  
32 authorized, registered, or otherwise permitted to transact  
33 business in this state and shall meet one of the following  
34 requirements:

35     *a.* At the time the policy is filed with the commissioner,

1 and continuously thereafter, the insurer maintains surplus  
2 as to policyholders and paid-in capital of at least fifteen  
3 million dollars and annually files copies of the insurer's  
4 financial statements, national association of insurance  
5 commissioners annual statement, and actuarial certification, if  
6 required and filed in the insurer's state of domicile.

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

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

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

16 (3) Files copies annually of the insurer's financial  
17 statements, national association of insurance commissioners  
18 annual statement, and actuarial certification, if required and  
19 filed in the insurer's state of domicile.

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

22 **523C.7 Disclosure to service contract holders — contract**  
23 **form — required provisions.**

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

27 *a.* Provides a receipt for the purchase of the service  
28 contract to the service contract holder.

29 *b.* Provides a copy of the service contract to the service  
30 contract holder within a reasonable period of time after the  
31 date of purchase of the service contract.

32 *c.* Provides a complete sample copy of the terms and  
33 conditions of the service contract to the service contract  
34 holder prior to the date of purchase. A service company may  
35 comply with this paragraph by providing the service contract

1 holder with a complete sample copy of the terms or conditions  
2 of the service contract, or directing the service contract  
3 holder to an internet site containing a complete sample copy of  
4 the terms and conditions of the service contract.

5 2. A motor vehicle service contract or residential service  
6 contract issued, sold, or offered for sale in this state shall  
7 comply with all of the following, as applicable:

8 a. A service contract shall be written in clear,  
9 understandable language in at least eight point font.

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

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

20 (2) A service contract insured by a reimbursement insurance  
21 policy shall conspicuously state the name and address of the  
22 issuer of the reimbursement insurance policy for that service  
23 contract. A claim against a reimbursement insurance policy  
24 shall also include a claim for return of any refund due in  
25 accordance with paragraphs "k" and "l".

26 c. A service contract not insured under a reimbursement  
27 insurance policy shall contain a statement in substantially the  
28 following form:

29 Obligations of the service company under this service  
30 contract are backed by the full faith and credit of the service  
31 company and are not guaranteed under a reimbursement insurance  
32 policy.

33 d. A service contract shall state the name and address of  
34 the service company obligated to perform services under the  
35 contract, and shall conspicuously identify the service company,

1 any third-party administrator, and the service contract holder  
2 to the extent that the name and address of the service contract  
3 holder has been furnished. The identities of such parties are  
4 not required to be printed on the contract in advance and may  
5 be added to the contract at the time of sale.

6 *e.* A service contract shall clearly state the total purchase  
7 price of the service contract and the terms under which the  
8 service contract is sold. The total purchase price is not  
9 required to be printed on the contract in advance and may be  
10 added to the contract at the time of sale.

11 *f.* If prior approval of repair work is required, a service  
12 contract shall conspicuously describe the procedure for  
13 obtaining prior approval and for making a claim, including a  
14 toll-free telephone number for claim service, and the procedure  
15 for obtaining emergency repairs performed outside of normal  
16 business hours.

17 *g.* A service contract shall clearly state the existence of  
18 any deductible amount.

19 *h.* A service contract shall specify the merchandise  
20 or services, or both, to be provided and any limitations,  
21 exceptions, or exclusions.

22 *i.* A service contract shall clearly state the conditions on  
23 which the use of substitute parts or services will be allowed.  
24 Such conditions shall comply with applicable state and federal  
25 laws.

26 *j.* A service contract shall clearly state any terms,  
27 restrictions, or conditions governing the transferability of  
28 the service contract.

29 *k.* A service contract shall clearly state the terms and  
30 conditions governing the cancellation of the contract prior  
31 to the termination or expiration date of the contract by the  
32 service company or the service contract holder. If the service  
33 company cancels the contract, the service company shall mail a  
34 written notice of termination to the service contract holder  
35 at least fifteen days before the date of the termination.

1 Prior notice of cancellation by the service company is not  
2 required if the reason for cancellation is nonpayment of the  
3 purchase price, a material misrepresentation by the service  
4 contract holder to the service company or its administrator, or  
5 a substantial breach of duties by the service contract holder  
6 relating to the covered product or its use. The notice of  
7 cancellation shall state the effective date of the cancellation  
8 and the reason for the cancellation. If a service contract  
9 is canceled by the service company for any reason other than  
10 nonpayment of the purchase price, the service company shall  
11 refund the service contract holder in an amount equal to one  
12 hundred percent of the unearned purchase price paid, calculated  
13 on a pro rata basis based upon elapsed time or mileage,  
14 less any claims paid. The service company may also charge a  
15 reasonable administrative fee in an amount no greater than ten  
16 percent of the total purchase price.

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

32 (2) If the service contract holder cancels the service  
33 contract outside of the applicable time as provided in  
34 subparagraph (1) or after a claim is made under the service  
35 contract, the service company shall refund the service contract

1 holder in an amount equal to one hundred percent of the  
2 unearned purchase price paid, calculated on a pro rata basis  
3 based upon elapsed time or mileage, less any claims paid. The  
4 service company may also charge a reasonable administrative fee  
5 in an amount no greater than ten percent of the total purchase  
6 price.

7 *m.* A service contract shall set forth all of the obligations  
8 and duties of the service contract holder, including but not  
9 limited to the duty to protect against any further damage,  
10 and the obligation to follow an owner's manual or any other  
11 required service or maintenance.

12 *n.* A service contract shall clearly state whether or not  
13 the contract provides for or excludes consequential damages  
14 or preexisting conditions, if applicable. A service contract  
15 may, but is not required to, cover damage resulting from rust,  
16 corrosion, or damage caused by a part or system which is not  
17 covered under the service contract.

18 *o.* A service contract shall clearly state the fee, if any,  
19 charged on the service contract holder for making a service  
20 call.

21 *p.* A service contract shall state the name and address of  
22 the commissioner.

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

25 **523C.9 Suspension or revocation of license.**

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

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

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

35 ~~c.~~ 3. The service company has without just cause refused



1 to perform or negligently or incompetently performed services  
2 required to be performed under its ~~residential~~ service  
3 contracts and the refusal, or negligent or incompetent  
4 performance has occurred with such frequency, as the  
5 commissioner determines, as to indicate the general business  
6 practices of the service company.

7 ~~d.~~ 4. The service company violated [section 523C.13](#).

8 ~~e.~~ 5. The service company failed to ~~maintain the net worth~~  
9 ~~required by [section 523C.6](#) demonstrate financial responsibility~~  
10 pursuant to section 523C.5.

11 ~~f.~~ ~~The service company failed to maintain the reserve~~  
12 ~~account required by [section 523C.11](#).~~

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

15 ~~2.~~ ~~If the license of a service company is terminated~~  
16 ~~under [section 523C.5](#) because of failure to maintain bond, the~~  
17 ~~commissioner shall give written notice of termination to the~~  
18 ~~service company. The notice shall include the effective date~~  
19 ~~of the termination.~~

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

22 **523C.12 Optional examination.**

23 The commissioner or a designee of the commissioner may  
24 make an examination of the books and records of a service  
25 company, including copies of contracts and records of claims  
26 and expenditures, and verify its assets, liabilities, and  
27 reserves. The actual costs of the examination shall be borne  
28 by the service company. The costs of an examination under this  
29 section shall not exceed an amount equal to ten percent of the  
30 service company's reported net income in the previous fiscal  
31 year.

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

34 **523C.13 Prohibited acts or practices — penalty — violations**  
35 **— contracts voided.**

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

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

9     b. Statements regarding the validity or expiration of a  
10 warranty.

11     c. Statements regarding a motor vehicle service contract  
12 holder's coverage under a motor vehicle service contract,  
13 including statements suggesting that the service contract  
14 holder must purchase a new service contract in order to  
15 maintain coverage under the existing service contract or  
16 warranty.

17     2. The commissioner shall may adopt rules which regulate  
18 motor vehicle service contracts and residential service  
19 contracts to prohibit misrepresentation, false advertising,  
20 defamation, boycotts, coercion, intimidation, false statements  
21 and entries and unfair discrimination or practices. If the  
22 commissioner finds that a person has violated the rules adopted  
23 under this section, the commissioner may order any or all of  
24 the following:

25     ~~1-~~ a. Payment of a civil penalty of not more than one  
26 thousand dollars for each and every act or violation, but not  
27 to exceed an aggregate of ten thousand dollars, unless the  
28 person knew or reasonably should have known the person was in  
29 violation of this section, in which case the penalty shall be  
30 not more than five thousand dollars for each and every act or  
31 violation, but not to exceed an aggregate penalty of fifty  
32 thousand dollars in any one six-month period. The commissioner  
33 shall, if it finds the violations of this section were  
34 directed, encouraged, condoned, ignored, or ratified by the  
35 employer of such person, assess such penalty to the employer

1 and not such person. Any civil penalties collected under this  
2 subsection shall be deposited as provided in [section 505.7](#).

3 ~~2. b.~~ Suspension or revocation of the license of a person,  
4 if the person knew or reasonably should have known the person  
5 was in violation of [this section](#).

6 3. A violation of this chapter constitutes an unlawful  
7 practice pursuant to section 714.16.

8 4. A service contract issued or sold in this state is void  
9 if the person that issued or sold the service contract, at the  
10 time of issuance or sale, was not licensed as a service company  
11 under this chapter.

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

14 **523C.15 Annual report.**

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

23 1. A current financial statement including a balance  
24 sheet and statement of operations prepared in accordance with  
25 generally accepted accounting principles and certified by an  
26 independent certified public accountant.

27 ~~2. The number of residential service contracts issued~~  
28 ~~during the preceding fiscal year, the number canceled or~~  
29 ~~expired during the year, the number in effect at year end and~~  
30 ~~the amount of residential service contract fees received.~~

31 ~~3.~~ 2. Any other information relating to the performance  
32 and solvency of the ~~residential~~ service company required by the  
33 commissioner.

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

1     **523C.16 Exclusions.**

2     This chapter does not apply to any of the following and the  
3 following do not constitute the practice of insurance:

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

7     2. A residential service contract, guarantee or warranty  
8 between a residential customer and a service company which will  
9 perform the work itself and not through subcontractors for  
10 the service, repair or replacement of residential property,  
11 appliances, or electrical, plumbing, heating, cooling or  
12 air-conditioning systems.

13     3. A contract between a service company issuing residential  
14 service contracts and a person who actually performs the  
15 maintenance, repairs, or replacements of structural components,  
16 or appliances, or electrical, plumbing, heating, cooling, or  
17 air-conditioning systems, if someone other than the service  
18 company actually performs these functions.

19     4. A residential service contract, guarantee or warranty  
20 issued by a retail merchant to a retail customer, guaranteeing  
21 or warranting the repair, service or replacement of appliances  
22 or electrical, plumbing, heating, cooling or air-conditioning  
23 systems sold by said retail merchant.

24     5. A residential service contract, guarantee, or warranty  
25 issued by a manufacturer, third party, or retail company,  
26 covering the repair, maintenance, or replacement of residential  
27 property, individual appliances, and other individual items  
28 of merchandise marketed and sold by a retail company, in the  
29 ordinary course of business.

30     6. A motor vehicle service contract issued by the  
31 manufacturer or importer of the motor vehicle covered by  
32 the service contract or to any third party acting in an  
33 administrative capacity on the manufacturer's behalf in  
34 connection with that service contract.

35     7. A residential service contract involving residential

1 property containing more than four dwelling units.

2 8. A warranty.

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

5 10. A maintenance agreement.

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

8 **523C.17 Lending institutions, ~~service companies, and~~**  
9 **~~insurance companies.~~**

10 A bank, savings association, insurance company, or other  
11 lending institution shall not require the purchase of a motor  
12 vehicle service contract or residential service contract as  
13 a condition of a loan or the sale of any property or motor  
14 vehicle. ~~A service company or an insurer, either directly or~~  
15 ~~indirectly, as a part of any real property transaction in which~~  
16 ~~a residential service contract will be issued, purchased, or~~  
17 ~~acquired, shall not require that a residential service contract~~  
18 ~~be issued, purchased, or acquired in conjunction with or as a~~  
19 ~~condition precedent to the issuance, purchase, or acquisition,~~  
20 ~~by any person, of a policy of insurance. A lending institution~~  
21 ~~shall not sell a residential service contract to a borrower~~  
22 ~~unless the borrower signs an affidavit acknowledging that~~  
23 ~~the purchase is not required. Violation of this section is~~  
24 punishable as provided in [section 523C.13](#).

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

27 **523C.22 Claim procedures.**

28 A licensed service company shall promptly provide a written  
29 explanation to the ~~residential customer~~ service contract  
30 holder, describing the reasons for denying a claim or for the  
31 offer of a compromise settlement, based on all relevant facts  
32 or legal requirements and referring to applicable provisions of  
33 the ~~residential~~ service contract.

34 Sec. 15. NEW SECTION. **523C.24 Service company oversight**  
35 **fund.**

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

5 2. The commissioner shall deposit in the service company  
6 oversight fund an amount equal to one-third of all licensing,  
7 examination, renewal, and inspection fees collected under this  
8 chapter, provided that the maximum amount of fees deposited  
9 in the fund each fiscal year shall not exceed five hundred  
10 thousand dollars. Any remaining fees collected under this  
11 chapter and not deposited in the service company oversight fund  
12 shall be deposited as provided in section 505.7.

13 3. Moneys in the service company oversight fund are  
14 appropriated to the commissioner for the administration and  
15 enforcement of this chapter, and for establishing service  
16 contract consumer complaint, education, and outreach programs.

17 4. Notwithstanding section 12C.7, subsection 2, interest or  
18 earnings on moneys deposited in the service company oversight  
19 fund shall be credited to the fund. Notwithstanding section  
20 8.33, moneys credited to the fund shall not revert at the close  
21 of a fiscal year.

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

23 Sec. 17. REPEAL. Sections 523C.8, 523C.8A, 523C.11,  
24 523C.14, and 523C.18, Code 2019, are repealed.

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

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