

1 ENGROSSED SENATE  
2 BILL NO. 2074

By: Sparks of the Senate

and

Sullivan of the House

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6 An Act relating to insurance; amending 36 O.S. 2001,  
7 Section 6607, as last amended by Section 3, Chapter  
8 189, O.S.L. 2009 (36 O.S. 2009, Section 6607), which  
9 relates to the Service Warranty Insurance Act;  
10 specifying that certain insurer shall possess certain  
11 rating; repealing 36 O.S. 2001, Section 6607, as last  
12 amended by Section 52, Chapter 176, O.S.L. 2009 (36  
13 O.S. 2001, Section 6607), which is a duplicate  
14 section; and declaring an emergency.

15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. AMENDATORY 36 O.S. 2001, Section 6607, as  
17 last amended by Section 3, Chapter 189, O.S.L. 2009 (36 O.S. Supp.  
18 2009, Section 6607), is amended to read as follows:

19 Section 6607. A. An association licensed pursuant to the  
20 Service Warranty Insurance Act shall maintain a funded, unearned  
21 premium reserve account, consisting of unencumbered assets, equal to  
22 a minimum of twenty-five percent (25%) of the gross written premiums  
23 received on all warranty contracts in force, wherever written. In  
24 the case of multiyear contracts which are offered by associations  
having net assets of less than Five Hundred Thousand Dollars  
(\$500,000.00) for which premiums are collected in advance for

1 coverage in a subsequent year, one hundred percent (100%) of the  
2 premiums for such subsequent years shall be placed in the funded,  
3 unearned premium reserve account. Additionally, an association  
4 establishing such reserve account shall also place in trust with the  
5 Insurance Commissioner a surety bond issued by an authorized surety  
6 having a value of not less than five percent (5%) of the gross  
7 premium received, less claims paid, on the sale of the service  
8 warranties for all service contracts issued and in force in this  
9 state, but in no event shall the bond be less than Twenty-five  
10 Thousand Dollars (\$25,000.00).

11 B. An association shall not be required to establish an  
12 unearned premium reserve or demonstrate the minimum writing ratio  
13 required by subsection D of this section if it has purchased an  
14 insurance policy which demonstrates to the satisfaction of the  
15 Insurance Commissioner that one hundred percent (100%) of its claim  
16 exposure is covered by such policy and satisfies the requirements of  
17 this section. The insurance shall be obtained from an insurer that  
18 is licensed, registered, or otherwise authorized to do business in  
19 this state, that is rated B++ or better by A.M. Best Company, Inc.,  
20 and that meets the requirements of subsection C of this section.  
21 For the purposes of this subsection, the insurance policy shall  
22 contain the following provisions:

23 1. In the event that the service warranty association is unable  
24 to fulfill its obligation under contracts issued in this state for

1 any reason, including insolvency, bankruptcy, or dissolution, the  
2 insurer will pay losses and unearned premiums under such plans  
3 directly to the person making a claim under the contract;

4 2. The insurer issuing the insurance policy shall assume full  
5 responsibility for the administration of claims in the event of the  
6 inability of the association to do so; and

7 3. The policy may not be canceled or not renewed by either the  
8 insurer or the association unless sixty (60) days' written notice  
9 thereof has been given to the Commissioner by the insurer before the  
10 date of such cancellation or nonrenewal.

11 C. The insurer providing the insurance policy used to satisfy  
12 the financial responsibility requirements of subsection B of this  
13 section must meet one of the following standards:

14 1. The insurer shall, at the time the policy is filed with the  
15 Commissioner, and continuously thereafter:

16 a. maintain surplus as to policyholders and paid-in  
17 capital of at least Fifteen Million Dollars  
18 (\$15,000,000.00), and

19 b. annually file copies of the audited financial  
20 statements of the insurer, its NAIC Annual Statement,  
21 and the actuarial certification required by and filed  
22 in the state of domicile of the insurer; or

23 2. The insurer shall, at the time the policy is filed with the  
24 Commissioner, and continuously thereafter:

1 a. maintain surplus as to policyholders and paid-in  
2 capital of less than Fifteen Million Dollars  
3 (\$15,000,000.00) but at least equal to Ten Million  
4 Dollars (\$10,000,000.00),

5 b. demonstrate to the satisfaction of the Commissioner  
6 that the company maintains a ratio of net written  
7 premiums, wherever written, to surplus as to  
8 policyholders and paid-in capital of not greater than  
9 three to one, and

10 c. annually file copies of the audited financial  
11 statements of the insurer, its NAIC Annual Statement,  
12 and the actuarial certification required by and filed  
13 in the state of domicile of the insurer.

14 D. No warrantor or warranty seller shall allow its gross  
15 written premiums to exceed seven to one ratio to net assets.

16 E. If the gross written premiums of a warrantor or a warranty  
17 seller exceed the required net asset ratios, the Commissioner may  
18 require, in addition to other measures as the Commissioner deems  
19 necessary, any one or more of the following:

- 20 1. A complete review of financial condition;
  - 21 2. An increase in deposit;
  - 22 3. A suspension of any new writings; or
  - 23 4. Capital infusion into the business.
- 24

1 SECTION 2. REPEALER 36 O.S. 2001, Section 6607, as last  
2 amended by Section 52, Chapter 176, O.S.L. 2009 (36 O.S. Supp. 2009,  
3 Section 6607), is hereby repealed.

4 SECTION 3. It being immediately necessary for the preservation  
5 of the public peace, health and safety, an emergency is hereby  
6 declared to exist, by reason whereof this act shall take effect and  
7 be in full force from and after its passage and approval.

8 Passed the Senate the 8th day of March, 2010.

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10 \_\_\_\_\_  
11 Presiding Officer of the Senate

12 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
13 2010.

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16 Presiding Officer of the House  
17 of Representatives

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