

THE HOUSE OF REPRESENTATIVES
Thursday, April 8, 2010

ENGROSSED
Senate Bill No. 2074

ENGROSSED SENATE BILL NO. 2074 - By: SPARKS of the Senate and SULLIVAN of the House.

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

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

1 SECTION 1. AMENDATORY 36 O.S. 2001, Section 6607, as last amended by
2 Section 3, Chapter 189, O.S.L. 2009 (36 O.S. Supp. 2009, Section 6607), is amended to
3 read as follows:
4 Section 6607. A. An association licensed pursuant to the Service Warranty
5 Insurance Act shall maintain a funded, unearned premium reserve account, consisting of
6 unencumbered assets, equal to a minimum of twenty-five percent (25%) of the gross
7 written premiums received on all warranty contracts in force, wherever written. In the
8 case of multiyear contracts which are offered by associations having net assets of less
9 than Five Hundred Thousand Dollars (\$500,000.00) for which premiums are collected in
10 advance for coverage in a subsequent year, one hundred percent (100%) of the premiums

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

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

17 1. In the event that the service warranty association is unable to fulfill its
18 obligation under contracts issued in this state for any reason, including insolvency,
19 bankruptcy, or dissolution, the insurer will pay losses and unearned premiums under
20 such plans directly to the person making a claim under the contract;

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

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

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

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

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

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

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

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

19 b. demonstrate to the satisfaction of the Commissioner that the company
20 maintains a ratio of net written premiums, wherever written, to
21 surplus as to policyholders and paid-in capital of not greater than
22 three to one, and

1 c. annually file copies of the audited financial statements of the insurer,
2 its NAIC Annual Statement, and the actuarial certification required by
3 and filed in the state of domicile of the insurer.

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

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

- 9 1. A complete review of financial condition;
- 10 2. An increase in deposit;
- 11 3. A suspension of any new writings; or
- 12 4. Capital infusion into the business.

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

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

19 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND
20 FINANCIAL SERVICES, dated 04-07-10 - DO PASS.