

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 ENGROSSED SENATE
5 BILL NO. 490

 By: Quinn of the Senate

 and

 Hill of the House

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9 An Act relating to the Oklahoma Home Service Contract
10 Act; amending 36 O.S. 2011, Sections 6751, as amended
11 by Section 37, Chapter 150, O.S.L. 2012 and 6752 (36
12 O.S. Supp. 2020, Section 6751), which relate to
13 purpose of act and definitions; modifying purpose and
14 applicability of act to home warranties; modifying
15 definition; specifying that home service contracts
16 and home warranties are not insurance and not
17 regulated by Insurance Code; providing for
18 codification; and providing an effective date.

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

 SECTION 1. AMENDATORY 36 O.S. 2011, Section 6751, as
amended by Section 37, Chapter 150, O.S.L. 2012 (36 O.S. Supp. 2020,
Section 6751), is amended to read as follows:

 Section 6751. A. The purpose of the Oklahoma Home Service
Contract Act is to create an independent legal framework within
which home service contracts and home warranties are defined, may be
sold and are regulated in this state. The Oklahoma Home Service
Contract Act declares that home service contracts and home

1 warranties, as defined in Section 6752 of this title, are not
2 insurance and not otherwise subject to the Insurance Code. The
3 Oklahoma Home Service Contract Act requires simple registration,
4 financial assurance options and enforcement by the Insurance
5 Commissioner. Proper registration under the Oklahoma Home Service
6 Contract Act exempts applicability under the Service Warranty Act,
7 which may regulate extended warranty, retail, automobile and
8 agreements not defined in the Oklahoma Home Service Contract Act.
9 Nothing in the Service Warranty Act is changed or amended by the
10 Oklahoma Home Service Contract Act.

11 B. The following items are exempt from the provisions of the
12 Oklahoma Home Service Contract Act:

13 1. Warranties as defined in Section 6752 of this title;

14 2. Maintenance agreements as defined in Section 6752 of this
15 title; and

16 3. Service contracts sold or offered for sale to persons other
17 than consumers, consumer product (extended warranty) service
18 contracts on new retail goods if made at the time of sale and motor
19 vehicle service contracts, all of which may be separately regulated
20 elsewhere in the Oklahoma Statutes.

21 C. The types of agreements covered by the Oklahoma Home Service
22 Contract Act are not insurance and do not have to comply with any
23 other provision of the Insurance Code outside of the Oklahoma Home
24 Service Contract Act.

1 SECTION 2. AMENDATORY 36 O.S. 2011, Section 6752, is
2 amended to read as follows:

3 Section 6752. As used in the Oklahoma Home Service Contract
4 Act:

5 1. "Administrator" means the person who is responsible for the
6 administration of home service contracts or the home service
7 contracts plan, who may promote the contract under their own private
8 label or brand as long as the provider is clearly identified on the
9 contract, or who is responsible for any submission required by the
10 Oklahoma Home Service Contract Act;

11 2. "Commissioner" means the Insurance Commissioner;

12 3. "Consumer" means a natural person who buys other than for
13 purposes of resale any tangible personal property that is
14 distributed in commerce and that is normally used for personal,
15 family or household purposes and not for business or research
16 purposes;

17 4. "Maintenance agreement" means a contract of limited duration
18 that provides for scheduled maintenance only and does not include
19 repair or replacement;

20 5. "Person" means an individual, partnership, corporation,
21 incorporated or unincorporated association, joint stock company,
22 reciprocal, syndicate or any similar entity or combination of
23 entities acting in concert;

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1 6. "Provider" means the person who is the contractually named
2 obligor to the home service contract holder under the terms of the
3 service contract;

4 7. "Provider fee" means the consideration paid for a home
5 service contract;

6 8. "Reimbursement insurance policy" means a policy of insurance
7 issued to a provider to either provide reimbursement to the provider
8 under the terms of the insured home service contracts issued or sold
9 by the provider or, in the event of the provider's nonperformance,
10 to pay on behalf of the provider all covered contractual obligations
11 incurred by the provider under the terms of the insured home service
12 contracts issued or sold by the provider;

13 9. "Home service contract" or "home warranty" means a contract
14 or agreement for a separately stated consideration for a specific
15 duration to perform the service, repair, replacement or maintenance
16 of property or indemnification for service, repair, replacement or
17 maintenance, for the operational or structural failure of any
18 residential property due to a defect in materials, workmanship,
19 inherent defect or normal wear and tear, with or without additional
20 provisions for incidental payment or indemnity under limited
21 circumstances. Home service contracts may provide for the service,
22 repair, replacement, or maintenance of property for damage resulting
23 from power surges or interruption and accidental damage from
24 handling and may provide for leak or repair coverage to house

1 roofing systems. Home service contracts and home warranties are not
2 insurance in this state or otherwise regulated under the Insurance
3 Code;

4 10. "Service contract holder" or "contract holder" means a
5 person who is the purchaser or holder of a home service contract;
6 and

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

15 SECTION 3. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 632.1 of Title 36, unless there
17 is created a duplication in numbering, reads as follows:

18 Home service contracts and home warranties, as defined in
19 Section 6752 of Title 36 of the Oklahoma Statutes, are not insurance
20 in this state or otherwise regulated under the Insurance Code.

21 SECTION 4. This act shall become effective November 1, 2021.

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23 COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 04/01/2021 - DO
24 PASS.