

1 **SENATE FLOOR VERSION**

2 February 18, 2021

3 SENATE BILL NO. 490

By: Quinn

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

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

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

21 Section 6751. A. The purpose of the Oklahoma Home Service
22 Contract Act is to create an independent legal framework within
23 which home service contracts and home warranties are defined, may be
24 sold and are regulated in this state. The Oklahoma Home Service
Contract Act declares that home service contracts and home
warranties, as defined in Section 6752 of this title, are not
insurance and not otherwise subject to the Insurance Code. The

1 Oklahoma Home Service Contract Act requires simple registration,
2 financial assurance options and enforcement by the Insurance
3 Commissioner. Proper registration under the Oklahoma Home Service
4 Contract Act exempts applicability under the Service Warranty Act,
5 which may regulate extended warranty, retail, automobile and
6 agreements not defined in the Oklahoma Home Service Contract Act.
7 Nothing in the Service Warranty Act is changed or amended by the
8 Oklahoma Home Service Contract Act.

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

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

12 2. Maintenance agreements as defined in Section 6752 of this
13 title; and

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

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

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

1 Section 6752. As used in the Oklahoma Home Service Contract
2 Act:

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

9 2. "Commissioner" means the Insurance Commissioner;

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

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

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

22 6. "Provider" means the person who is the contractually named
23 obligor to the home service contract holder under the terms of the
24 service contract;

1 7. "Provider fee" means the consideration paid for a home
2 service contract;

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

10 9. "Home service contract" or "home warranty" means a contract
11 or agreement for a separately stated consideration for a specific
12 duration to perform the service, repair, replacement or maintenance
13 of property or indemnification for service, repair, replacement or
14 maintenance, for the operational or structural failure of any
15 residential property due to a defect in materials, workmanship,
16 inherent defect or normal wear and tear, with or without additional
17 provisions for incidental payment or indemnity under limited
18 circumstances. Home service contracts may provide for the service,
19 repair, replacement, or maintenance of property for damage resulting
20 from power surges or interruption and accidental damage from
21 handling and may provide for leak or repair coverage to house
22 roofing systems. Home service contracts and home warranties are not
23 insurance in this state or otherwise regulated under the Insurance
24 Code;

1 10. "Service contract holder" or "contract holder" means a
2 person who is the purchaser or holder of a home service contract;
3 and

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

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

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

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

19 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
20 February 18, 2021 - DO PASS

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