

An Act

ENROLLED SENATE
BILL NO. 490

By: Quinn of the Senate

and

Hill of the House

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

SUBJECT: Oklahoma Home Service Contract Act

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 warranties, as defined in Section 6752 of this title, are not insurance and not otherwise subject to the Insurance Code. The Oklahoma Home Service Contract Act requires simple registration,

financial assurance options and enforcement by the Insurance Commissioner. Proper registration under the Oklahoma Home Service Contract Act exempts applicability under the Service Warranty Act, which may regulate extended warranty, retail, automobile and agreements not defined in the Oklahoma Home Service Contract Act. Nothing in the Service Warranty Act is changed or amended by the Oklahoma Home Service Contract Act.

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

1. Warranties as defined in Section 6752 of this title;
2. Maintenance agreements as defined in Section 6752 of this title; and
3. Service contracts sold or offered for sale to persons other than consumers, consumer product (extended warranty) service contracts on new retail goods if made at the time of sale and motor vehicle service contracts, all of which may be separately regulated elsewhere in the Oklahoma Statutes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Passed the Senate the 4th day of March, 2021.

Presiding Officer of the Senate

Passed the House of Representatives the 14th day of April, 2021.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____