

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

SENATE BILL 490

By: Quinn

AS INTRODUCED

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.

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

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:  
25

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.  
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