

REFERENCE TITLE: **service contracts**

State of Arizona
Senate
Fifty-third Legislature
Second Regular Session
2018

SB 1381

Introduced by
Senator Petersen

AN ACT

AMENDING SECTIONS 20-1095, 20-1095.01, 20-1095.02, 20-1095.03 AND 20-1095.04, ARIZONA REVISED STATUTES; REPEALING SECTION 20-1095.06, ARIZONA REVISED STATUTES; AMENDING TITLE 20, CHAPTER 4, ARTICLE 11, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 20-1095.06; AMENDING SECTION 20-1095.07, ARIZONA REVISED STATUTES; RELATING TO SERVICE COMPANIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-1095, Arizona Revised Statutes, is amended to
3 read:

4 20-1095. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Consumer" means a buyer other than for purposes of resale of
7 any consumer product, any person to whom the product is transferred during
8 the duration of an implied or written warranty or service contract
9 applicable to the product and any other person who is entitled by the
10 terms of the warranty or service contract or under applicable federal or
11 state law to enforce against the warrantor or service company the
12 obligations of the warranty or service contract. ~~★~~ Consumer also means
13 the buyer or seller of residential property.

14 2. "Consumer product" means any tangible personal property ~~which~~
15 ~~THAT~~ is distributed in commerce and ~~which THAT~~ is normally used solely for
16 personal, family or household purposes including any such property
17 intended to be attached to or installed in any real property without
18 regard to whether it is so attached or installed.

19 3. "Home warranty or home protection contract" means a service
20 contract as defined in paragraph ~~8~~ 7, subdivision (b), ~~ITEM (i)~~ of this
21 section.

22 4. "Mechanical reimbursement insurance" means an insurance policy
23 issued to a ~~motor vehicle dealer to insure the performance of a motor~~
24 ~~vehicle service contract to a consumer if the motor vehicle dealer or the~~
25 ~~service contract administrator becomes insolvent or ceases to do business.~~
26 ~~All such policies shall provide that all purchasers of motor vehicle~~
27 ~~service contracts are covered if the motor vehicle dealer, the service~~
28 ~~contract administrator or the insurer becomes insolvent or ceases to do~~
29 ~~business.~~ PROVIDER TO EITHER PROVIDE REIMBURSEMENT TO THE PROVIDER UNDER
30 THE TERMS OF THE INSURED SERVICE CONTRACTS ISSUED OR SOLD BY THE PROVIDER
31 OR, IN THE EVENT OF THE PROVIDER'S NONPERFORMANCE, TO PAY ON BEHALF OF THE
32 PROVIDER ALL COVERED CONTRACTUAL OBLIGATIONS INCURRED BY THE PROVIDER
33 UNDER THE TERMS OF THE INSURED SERVICE CONTRACTS ISSUED OR SOLD BY THE
34 PROVIDER.

35 ~~5. "Motor vehicle service contract program" means contractual~~
36 ~~documents, including service contract forms, claim forms and other forms,~~
37 ~~used in connection with the sale of service contracts by motor vehicle~~
38 ~~dealers.~~

39 ~~6.~~ 5. "Residential property" means a house, townhouse, condominium
40 or other habitable structure ~~consisting of no more than four units which~~
41 ~~THAT~~ is used principally as a residence.

42 ~~7.~~ 6. "Service company" means any person ~~who performs or arranges~~
43 ~~to perform services pursuant to a service contract which the person issues~~
44 ~~THAT IS CONTRACTUALLY OBLIGATED TO THE CONTRACT HOLDER UNDER THE TERMS OF~~
45 ~~THE SERVICE CONTRACT. SERVICE COMPANY DOES NOT INCLUDE A SERVICE CONTRACT~~

1 ADMINISTRATION OR SELLER IF THE PERSON IS NOT CONTRACTUALLY OBLIGATED TO
2 THE CONTRACT HOLDER UNDER THE TERMS OF THE SERVICE CONTRACT.

3 ~~8.~~ 7. "Service contract":

4 (a) Means a ~~written~~ contract ~~for a prepaid separately stated~~
5 ~~consideration to perform, over a fixed period of time or for a specified~~
6 ~~duration, services relating to the maintenance or repair, including~~
7 ~~replacement, of:~~

8 ~~(a) A consumer product.~~

9 ~~(b) All or any part of the structural components, the appliances or~~
10 ~~the electrical, plumbing, heating, cooling or air conditioning systems of~~
11 ~~residential property.~~ OR AGREEMENT FOR A SEPARATELY STATED CONSIDERATION

12 FOR A SPECIFIC DURATION TO PERFORM THE REPAIR, REPLACEMENT OR MAINTENANCE
13 OF A CONSUMER PRODUCT OR INDEMNIFICATION FOR REPAIR, REPLACEMENT OR
14 MAINTENANCE FOR THE OPERATIONAL OR STRUCTURAL FAILURE OF A CONSUMER
15 PRODUCT DUE TO A DEFECT IN MATERIALS, WORKMANSHIP, ACCIDENTAL DAMAGE FROM
16 HANDLING, A POWER SURGE OR INTERRUPTION OR NORMAL WEAR AND TEAR, WITH OR
17 WITHOUT ADDITIONAL PROVISIONS FOR INCIDENTAL PAYMENT OF INDEMNITY UNDER
18 LIMITED CIRCUMSTANCES, INCLUDING TOWING, RENTAL AND EMERGENCY ROAD SERVICE
19 AND ROAD HAZARD PROTECTION.

20 (b) INCLUDES A CONTRACT OR AGREEMENT SOLD FOR A SEPARATELY STATED
21 CONSIDERATION FOR A SPECIFIC DURATION THAT PROVIDES FOR ANY OF THE
22 FOLLOWING:

23 (i) SERVICES RELATING TO THE MAINTENANCE OR REPAIR, INCLUDING
24 REPLACEMENT, OF ALL OR ANY PART OF THE STRUCTURAL COMPONENTS, THE
25 APPLIANCES OR THE ELECTRICAL, PLUMBING, HEATING, COOLING OR AIR
26 CONDITIONING SYSTEMS OF RESIDENTIAL PROPERTY.

27 (ii) THE REPAIR OR REPLACEMENT OF TIRES OR WHEELS ON A MOTOR
28 VEHICLE DAMAGED AS A RESULT OF COMING INTO CONTACT WITH ROAD HAZARDS
29 INCLUDING POTHOLES, ROCKS, WOOD DEBRIS, METAL PARTS, GLASS, PLASTIC, CURBS
30 OR COMPOSITE SCRAPS.

31 (iii) THE REMOVAL OF DENTS, DINGS OR CREASES ON A MOTOR VEHICLE
32 THAT CAN BE REPAIRED USING THE PROCESS OF PAINLESS DENT REMOVAL WITHOUT
33 AFFECTING THE EXISTING PAINT FINISH AND WITHOUT REPLACING VEHICLE BODY
34 PANELS, SANDING, BONDING OR PAINTING.

35 (iv) THE REPLACEMENT OF A MOTOR VEHICLE KEY OR KEY FOB IN THE EVENT
36 THAT THE KEY OR KEY FOB BECOMES INOPERABLE OR IS LOST OR STOLEN.

37 (v) OTHER SERVICES OR PRODUCTS THAT MAY BE APPROVED BY THE
38 DIRECTOR.

39 ~~9.~~ 8. "Service contract administrator" means ~~an entity which~~
40 ~~agrees to provide contract forms, process claims and procure insurance for~~
41 ~~and on behalf of a motor vehicle dealer in the performance of the~~
42 ~~obligations pursuant to the motor vehicle service contract but which may~~
43 ~~not itself perform actual repairs~~ A PERSON WHO IS RESPONSIBLE FOR THE
44 ADMINISTRATION OF THE SERVICE CONTRACTS OR THE SERVICE CONTRACTS PLAN OR
45 WHO IS RESPONSIBLE FOR ANY SUBMISSION REQUIRED UNDER THIS ARTICLE.

1 ~~10-~~ 9. "Warranty" means:

2 (a) Any written affirmation by a manufacturer or seller of fact or
3 written promise made in connection with the sale of a consumer product
4 ~~which~~ THAT relates to the nature of the material or workmanship and
5 affirms or promises that the material or workmanship is free of defects or
6 will meet a specified level of performance over a specified period of
7 time.

8 (b) Any undertaking by a manufacturer or seller in writing in
9 connection with the sale of a consumer product to refund, repair, replace
10 or take other remedial action with respect to such a product if the
11 product fails to meet the specifications set forth in the undertaking,
12 which written affirmation, promise or undertaking becomes part of the
13 basis of the bargain for purposes other than resale of such product and if
14 there is no separate identifiable charge to the consumer.

15 Sec. 2. Section 20-1095.01, Arizona Revised Statutes, is amended to
16 read:

17 20-1095.01. Service companies; permits; rules; application of
18 laws

19 A. ~~No~~ A service company may NOT offer or issue a service contract
20 unless the service company has qualified for and been issued a permit by
21 the director.

22 B. EXCEPT FOR THE REGISTRATION REQUIREMENTS IN THIS ARTICLE
23 APPLICABLE TO SERVICE COMPANIES, SERVICE COMPANIES AND RELATED SERVICE
24 CONTRACT SELLERS, ADMINISTRATORS AND OTHER PERSONS THAT MARKET, SELL OR
25 OFFER TO SELL SERVICE CONTRACTS ARE EXEMPT FROM ANY LICENSING REQUIREMENTS
26 OF THIS TITLE.

27 ~~B.~~ C. The director shall adopt rules ~~and regulations which~~ THAT
28 provide for the application for permit, renewal procedures, fees, refund
29 of the unearned portion of the contract price and approval of forms.
30 Service companies are subject to ~~the provisions of~~ chapter 1 of this
31 title, EXCEPT SECTION 20-116, and ~~to~~ this article.

32 Sec. 3. Section 20-1095.02, Arizona Revised Statutes, is amended to
33 read:

34 20-1095.02. Exemptions; definition

35 A. This article, except for section 20-1095.09, does not apply to
36 the following:

37 1. Warranties issued by manufacturers, builders or sellers on the
38 actual items, structures or improvements that they manufacture, build or
39 sell.

40 2. Service contract programs if a motor vehicle manufacturer OR
41 MOTOR VEHICLE DEALER has financial responsibility for performance.

42 3. Warranties and service contracts issued by a corporation other
43 than a manufacturer or seller in connection with consumer products that
44 are distributed by the corporation if the issuing corporation:

45 (a) Is an affiliate of a consumer products manufacturer.

1 (b) By March 1 of each year submits to the director an
2 independently audited financial statement in which at least one officer of
3 the issuing corporation attests and a certified public accountant
4 certifies that the issuing corporation has and maintains a net worth in
5 excess of one hundred million dollars. Any information, documents and
6 copies that are obtained by or disclosed to the director or any other
7 person pursuant to this subdivision are not available for public
8 inspection, except that the director may use this information in any
9 proceeding relating to this article.

10 4. A service company that issues a service contract to persons
11 other than a consumer.

12 5. A service company that is in the business of selling or
13 servicing any one of the following, if the service contract only covers
14 the actual item the service company sells:

15 (a) Appliances or electronic equipment, or both.

16 (b) Residential heating, cooling or air conditioning systems.

17 (c) Mechanical equipment, other than motor vehicles or their
18 components.

19 6. A service company only to the extent that it is in the business
20 of selling or servicing directly, or through other retailers, cell phones
21 and other electronic personal communications devices and accessories.

22 7. Any person licensed pursuant to title 32, chapter 10, or not
23 required to be licensed because exempt pursuant to section 32-1121,
24 subsection A, paragraph 13 whose service contract only covers the actual
25 items, structures or improvements that the person installs, constructs or
26 builds.

27 8. A maintenance agreement of limited duration that provides for
28 scheduled maintenance only and does not include repair or replacement.

29 B. The director may employ independent examiners pursuant to
30 section 20-156 to review and analyze the financial statements that are
31 submitted pursuant to subsection A, paragraph 3 of this section.

32 ~~C. A motor vehicle dealer who is licensed under title 28, chapter~~
33 ~~10, who sells a service contract program approved by the director pursuant~~
34 ~~to section 20-1095.06 and who notifies the director pursuant to section~~
35 ~~20-1095.07 shall be exempt from the remainder of the requirements of this~~
36 ~~article.~~

37 C. THE TYPES OF AGREEMENTS REFERRED TO IN SUBSECTION A OF THIS
38 SECTION ARE NOT INSURANCE AND ARE NOT REQUIRED TO COMPLY WITH THE
39 INSURANCE LAWS OF THIS STATE UNLESS A PROVISION IS MADE EXPRESSLY
40 APPLICABLE IN THIS ARTICLE.

41 D. For the purposes of this section, "affiliate" means a
42 corporation that is owned or controlled by or is under common control with
43 a manufacturer.

1 Sec. 4. Section 20-1095.03, Arizona Revised Statutes, is amended to
2 read:

3 20-1095.03. Qualifications for permit

4 A. The director shall not issue a permit to a service company
5 unless all of the following conditions are met:

6 1. ~~If the applicant is a corporation,~~ The applicant is ~~a~~ solvent
7 ~~corporation incorporated~~ AND ORGANIZED under the laws of this state or
8 another state, district, territory or possession of the United States.

9 2. The applicant furnishes proof as necessary to the director that
10 the directors and management of the service company are competent and
11 trustworthy and are capable of successfully managing the service company's
12 affairs in compliance with law.

13 3. The applicant EITHER:

14 (a) Files ~~cash, alternatives to cash or~~ a surety bond OR AN
15 ALTERNATIVE TO A SURETY BOND as required by section 20-1095.04.

16 (b) IS INSURED BY A MECHANICAL REIMBURSEMENT INSURANCE POLICY
17 ISSUED BY AN INSURER AUTHORIZED TO DO BUSINESS IN THIS STATE AND PROVIDES
18 A COPY OF THE POLICY TO THE DIRECTOR.

19 4. The applicant is in compliance and continues to be in compliance
20 with all applicable laws.

21 5. The applicant pays the initial fee prescribed in section 20-167.

22 B. This article does not require the director to determine the
23 actual financial condition or claims practices of any service company;
24 ~~motor vehicle dealer or service contract administrator.~~ The ~~approval of a~~
25 ~~service contract program or the~~ issuance of a SERVICE COMPANY permit
26 indicates only that the entity appears to be financially sound and to have
27 satisfactory claims practices and that the director has no credible
28 evidence to the contrary.

29 Sec. 5. Section 20-1095.04, Arizona Revised Statutes, is amended to
30 read:

31 20-1095.04. Filing of surety bond, securities or bonds

32 A. To ~~assure~~ ENSURE faithful performance of its obligations to
33 contract holders, every service company ELECTING TO COMPLY WITH SECTION
34 20-1095.03, SUBSECTION A, PARAGRAPH 3, SUBDIVISION (a) ~~shall, prior to~~
35 BEFORE the issuance of a permit, SHALL file with or for the benefit of the
36 director ~~cash or alternatives to cash which~~ A SURETY BOND THAT COMPLIES
37 WITH SUBSECTION C OF THIS SECTION AND THAT at all times ~~have~~ HAS a value
38 of at least one hundred thousand dollars.

39 B. The service company may file alternatives to ~~cash such as~~
40 ~~certificates of deposit purchased from a financial institution licensed to~~
41 ~~conduct business in this state~~ A SURETY BOND IN THE FORM OF SECURITIES
42 ELIGIBLE FOR THE INVESTMENT OF CAPITAL FUNDS OF DOMESTIC INSURERS UNDER
43 THIS TITLE or bonds of the United States government.

1 C. ~~In lieu of the cash or alternatives to cash required by this~~
2 ~~section, the applicant may file with the director~~ A surety bond ~~in the~~
3 ~~amount required by~~ THAT IS FILED UNDER subsection A ~~which is~~ OF THIS
4 SECTION MUST BE issued by a surety insurer licensed to do business in this
5 state and ~~which is~~ MUST BE for the same purpose as required in
6 subsection A OF THIS SECTION. The surety bond is subject to the approval
7 of the director. The surety insurer shall not cancel the bond or subject
8 the bond to cancellation unless thirty days' written notice is given to
9 the director.

10 D. If ~~alternatives to cash are made in the form of certificates of~~
11 ~~deposit or a~~ SECURITIES OR BONDS OF THE UNITED STATES GOVERNMENT ARE FILED
12 AS AN ALTERNATIVE TO A SURETY bond, ~~it~~ THE SECURITIES OR BONDS shall be
13 irrevocably pledged to the director. The service company is entitled to
14 any accrued interest earned from the ~~alternatives to cash~~ SECURITIES OR
15 BONDS.

16 E. The service company shall not impair or encumber the ~~cash,~~
17 ~~alternatives to cash or~~ surety bond, SECURITIES OR BONDS OF THE UNITED
18 STATES GOVERNMENT filed under this section and shall pledge the ~~cash,~~
19 ~~alternatives to cash or surety bond~~ SAME to the director. The service
20 company shall maintain the ~~cash, alternatives to cash or~~ surety bond,
21 SECURITIES OR BONDS OF THE UNITED STATES GOVERNMENT in force until such
22 time as all of the service company's contractual obligations to contract
23 holders are fulfilled.

24 F. NOTWITHSTANDING SECTIONS 20-116 AND 35-155, A SERVICE COMPANY
25 MAY NOT USE A CASH DEPOSIT TO COMPLY WITH THIS SECTION.

26 Sec. 6. Repeal

27 Section 20-1095.06, Arizona Revised Statutes, is repealed.

28 Sec. 7. Title 20, chapter 4, article 11, Arizona Revised Statutes,
29 is amended by adding a new section 20-1095.06, to read:

30 20-1095.06. Required service contract disclosures

31 A. EACH SERVICE COMPANY HOLDING A SERVICE COMPANY PERMIT SHALL
32 SUBMIT ALL SERVICE CONTRACT FORMS TO THE DIRECTOR FOR APPROVAL AT LEAST
33 THIRTY DAYS BEFORE THE PROPOSED EFFECTIVE DATE OF THE FORM. A FORM MAY NOT
34 BE USED UNTIL IT IS APPROVED BY THE DIRECTOR OR HAS BEEN ON FILE WITH THE
35 DIRECTOR MORE THAN THIRTY DAYS.

36 B. THE DIRECTOR MAY NOT APPROVE A SERVICE CONTRACT IF:

37 1. THE SERVICE CONTRACT MAY BE CANCELED OR VOIDED DUE TO ACTS OR
38 OMISSIONS OF THE SERVICE COMPANY OR ITS ASSIGNEES OR SUBCONTRACTORS FOR
39 THEIR FAILURE TO PROVIDE CORRECT INFORMATION OR THEIR FAILURE TO PERFORM
40 THE SERVICES OR REPAIRS PROVIDED IN A TIMELY, COMPETENT AND WORKMANLIKE
41 MANNER.

42 2. PARTS OR COMPONENTS REPAIRED OR REPLACED UNDER THE SERVICE
43 CONTRACT ARE EXCLUDED.

1 3. THE SERVICE CONTRACT MAY BE CANCELED OR VOIDED BY THE SERVICE
2 COMPANY OR ITS REPRESENTATIVES FOR ANY OF THE FOLLOWING REASONS:

3 (a) PREEXISTING CONDITIONS THAT WERE KNOWN OR THAT REASONABLY
4 SHOULD HAVE BEEN KNOWN BY THE SERVICE COMPANY OR THE PERSON SELLING THE
5 SERVICE CONTRACT ON THE SERVICE COMPANY'S BEHALF.

6 (b) PRIOR USE OR UNLAWFUL ACTS RELATING TO THE PRODUCT.

7 (c) MISREPRESENTATION BY EITHER THE SERVICE COMPANY OR THE PERSON
8 SELLING THE SERVICE CONTRACT ON THE SERVICE COMPANY'S BEHALF.

9 C. SERVICE CONTRACTS MAY NOT BE ISSUED, SOLD OR OFFERED FOR SALE IN
10 THIS STATE UNLESS THE SERVICE COMPANY HAS PROVIDED BOTH:

11 1. A RECEIPT FOR OR OTHER WRITTEN EVIDENCE OF THE PURCHASE OF THE
12 SERVICE CONTRACT TO THE CONTRACT HOLDER.

13 2. A COPY OF THE SERVICE CONTRACT TO THE SERVICE CONTRACT HOLDER
14 WITHIN A REASONABLE PERIOD OF TIME FROM THE DATE OF PURCHASE.

15 D. SERVICE CONTRACTS THAT ARE MARKETED, SOLD, OFFERED FOR SALE,
16 ISSUED, MADE, PROPOSED TO BE MADE OR ADMINISTERED IN THIS STATE SHALL BE
17 WRITTEN, PRINTED OR TYPED IN CLEAR, UNDERSTANDABLE LANGUAGE THAT IS EASY
18 TO READ AND SHALL DISCLOSE THE FOLLOWING, AS APPLICABLE:

19 1. SERVICE CONTRACTS THAT ARE INSURED UNDER A MECHANICAL
20 REIMBURSEMENT INSURANCE POLICY PURSUANT TO SECTION 20-1095.03, SUBSECTION
21 A, PARAGRAPH 3, SUBDIVISION (b) SHALL STATE THE NAME AND ADDRESS OF THE
22 INSURER AND CONTAIN A STATEMENT IN SUBSTANTIALLY THE FOLLOWING FORM:
23 "OBLIGATIONS OF THE PROVIDER UNDER THIS SERVICE CONTRACT ARE INSURED UNDER
24 A SERVICE CONTRACT REIMBURSEMENT INSURANCE POLICY".

25 2. SERVICE CONTRACTS THAT ARE NOT INSURED UNDER A REIMBURSEMENT
26 INSURANCE POLICY PURSUANT TO SECTION 20-1095.03, SUBSECTION A, PARAGRAPH
27 3, SUBDIVISION (a) SHALL CONTAIN A STATEMENT IN SUBSTANTIALLY THE
28 FOLLOWING FORM: "OBLIGATIONS OF THE PROVIDER UNDER THIS SERVICE CONTRACT
29 ARE BACKED BY THE FULL FAITH AND CREDIT OF THE PROVIDER".

30 3. SERVICE CONTRACTS SHALL STATE THE NAME AND ADDRESS OF THE
31 PROVIDER AND SHALL IDENTIFY AN ADMINISTRATOR IF DIFFERENT FROM THE
32 PROVIDER, THE SERVICE CONTRACT SELLER AND THE SERVICE CONTRACT HOLDER TO
33 THE EXTENT THAT THE NAME OF THE SERVICE CONTRACT HOLDER HAS BEEN FURNISHED
34 BY THE SERVICE CONTRACT HOLDER. THE IDENTITIES OF THESE PARTIES ARE NOT
35 REQUIRED TO BE PREPRINTED ON THE SERVICE CONTRACT AND MAY BE ADDED TO THE
36 SERVICE CONTRACT AT THE TIME OF SALE.

37 4. SERVICE CONTRACTS SHALL STATE THE TOTAL PURCHASE PRICE OF THE
38 SERVICE CONTRACT. THE PURCHASE PRICE IS NOT REQUIRED TO BE PREPRINTED ON
39 THE SERVICE CONTRACT AND MAY BE NEGOTIATED AT THE TIME OF SALE WITH THE
40 SERVICE CONTRACT HOLDER.

41 5. SERVICE CONTRACTS SHALL STATE THE EXISTENCE OF A DEDUCTIBLE
42 AMOUNT, IF APPLICABLE.

1 6. SERVICE CONTRACTS SHALL SPECIFY THE MERCHANDISE AND SERVICES TO
2 BE PROVIDED AND ANY LIMITS, EXCEPTIONS OR EXCLUSIONS. EXCLUSIONS FROM
3 COVERAGE SHALL BE IN BOLD-FACED TYPE. SERVICE CONTRACTS MAY, BUT ARE NOT
4 REQUIRED TO, COVER DAMAGE RESULTING FROM RUST, CORROSION OR DAMAGE CAUSED
5 BY A NONCOVERED PART OR SYSTEM.

6 7. SERVICE CONTRACTS COVERING AUTOMOBILES SHALL STATE WHETHER THE
7 USE OF NONORIGINAL MANUFACTURERS' PARTS IS ALLOWED.

8 8. SERVICE CONTRACTS SHALL STATE ANY RESTRICTIONS GOVERNING THE
9 TRANSFERABILITY OF THE SERVICE CONTRACT, IF APPLICABLE.

10 9. SERVICE CONTRACTS SHALL STATE THE TERMS, RESTRICTIONS OR
11 CONDITIONS GOVERNING CANCELLATION OF THE SERVICE CONTRACT BEFORE THE
12 TERMINATION OR EXPIRATION DATE OF THE SERVICE CONTRACT BY EITHER THE
13 PROVIDER OR THE SERVICE CONTRACT HOLDER. AT A MINIMUM, A SERVICE CONTRACT
14 SHALL PROVIDE FOR A PRO RATA REFUND AFTER DEDUCTING FOR ADMINISTRATIVE
15 EXPENSES ASSOCIATED WITH THE CANCELLATION. THE ADMINISTRATIVE EXPENSES MAY
16 NOT EXCEED TEN PERCENT OF THE GROSS AMOUNT PAID BY THE SERVICE CONTRACT
17 HOLDER FOR THE SERVICE CONTRACT.

18 10. SERVICE CONTRACTS SHALL SET FORTH ALL OF THE OBLIGATIONS AND
19 DUTIES OF THE SERVICE CONTRACT HOLDER, INCLUDING THE DUTY TO PROTECT
20 AGAINST ANY FURTHER DAMAGE AND ANY REQUIREMENT TO FOLLOW OWNER'S MANUAL.

21 11. SERVICE CONTRACTS SHALL DISCLOSE THE MATERIAL ACTS OR OMISSIONS
22 OF THE CONTRACT HOLDER THAT CANCEL OR VOID COVERAGE, IF ANY.

23 12. SERVICE CONTRACTS SHALL STATE WHETHER THE SERVICE CONTRACT
24 PROVIDES FOR OR EXCLUDES CONSEQUENTIAL DAMAGES OR PREEXISTING CONDITIONS,
25 IF APPLICABLE. A SERVICE CONTRACT MAY NOT EXCLUDE PREEXISTING CONDITIONS
26 IF SUCH CONDITIONS WERE KNOWN OR SHOULD REASONABLY HAVE BEEN KNOWN BY THE
27 SERVICE COMPANY OR THE PERSON SELLING THE SERVICE CONTRACT ON THE SERVICE
28 COMPANY'S BEHALF.

29 Sec. 8. Section 20-1095.07, Arizona Revised Statutes, is amended to
30 read:

31 20-1095.07. Sale of unapproved service contract; violation;
32 classification

33 ~~A. Any licensed motor vehicle dealer, acting through its regularly~~
34 ~~employed sales personnel, may sell any motor vehicle service contract~~
35 ~~program approved pursuant to section 20-1095.06.~~

36 ~~B. Prior to commencing the sale of any approved service contract~~
37 ~~program, the licensed motor vehicle dealer shall, by certified mail,~~
38 ~~inform the director of the intent to sell the identified program. No fee~~
39 ~~is required for such notification.~~

40 ~~C. The director shall maintain a file of all approved motor vehicle~~
41 ~~service contract programs and a list of the motor vehicle dealers selling~~
42 ~~a specific program.~~

1 ~~D.~~ A. A person who sells an unapproved ~~motor vehicle~~ service
2 contract ~~program~~ is guilty of a class 2 misdemeanor.
3 ~~E.~~ B. A ~~motor vehicle~~ service contract is not invalid solely by
4 reason of not being approved as required by this article.
5 ~~F.~~ C. The director may adopt rules ~~and regulations~~ prescribing the
6 form of application for approval of a ~~motor vehicle~~ service contract
7 ~~program~~ COMPANY, the form of surety bond, the criteria for the policy of
8 mechanical reimbursement insurance, refund of the unearned portion of the
9 contract price and to provide procedures for hearings in connection with
10 the disapproval of a ~~motor vehicle~~ service contract ~~program~~ COMPANY.