

Oklahoma Bill Clears Service Contract Providers of Insurance Laws

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OKLAHOMA CITY — Dealers and F&I product providers operating in Oklahoma are breathing a little easier after the state passed legislation clarifying that vehicle service contracts will not be regulated as insurance.

Spearheaded by the Service Contract Industry Council (SCIC), SB 1475 was signed into law on April 25, 2012, more than a year after a state Supreme Court ruled that service contracts met the definition of insurance. The Service Warranty Act goes into effect Nov. 1.

If not for the bill's passage, VSC providers would have been exposed to the same rules governing insurance companies.

"When the service contract model law was put in place, it didn't include a paragraph making it clear that service contracts are not insurance," said Stephen McDaniel, assistant executive director of the SCIC, adding that the trade group was responsible for getting the initial law passed in the 1980s. "Most service contract laws will have a paragraph or two that this is not insurance and should not be viewed as such."

McDaniel said the SCIC took action immediately after the Supreme Court issued its ruling in a case involving a consumer lawsuit filed in March 2009 against Enterprise Financial Group. The ruling meant insurance F&I product providers could be sued for punitive damages, or damages beyond compensation.

"We brought this to the attention of the industry once we saw the opinion from the Supreme Court," McDaniel said. "The [Oklahoma Department of Insurance] was supportive of the bill."

Last year, the court had upheld that VSCs should function as insurance. In Jan. 2011, the Oklahoma Supreme Court ruled that: "Although vehicle service providers may not be subject to the exact same requirements and regulations as insurance providers, vehicle service contracts meet the definition of and are designed to function and perform as 'insurance.' The consumer pays for indemnity and pays to shift the risk of paying for high repair costs to the vehicle service provider in exchange for a pre-paid premium. Because these contracts function like insurance, their providers should be subject to the same covenants of good faith that insurers must meet."

The bill passed both houses of the Oklahoma State Legislature with majority before receiving Governor Mary Fallin's signature in April. The law now reads: "Service warranties are not insurance in this state or otherwise regulated under the Insurance Code."