WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2000

ENROLLED

House Bill No. 4499
(By Delegates Beane and Hutchins)

Passed March 8, 2000
In Effect Ninety Days from Passage
AN ACT to amend and reenact section two, article four, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the exemption of warranties, service contracts and maintenance agreements from regulation under the insurance laws.

Be it enacted by the Legislature of West Virginia:

That section two, article four, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 4. GENERAL PROVISIONS.

§33-4-2. Application of chapter to particular types of insurers.

1 (a) No provision of this chapter shall apply to:

2 (1) Hospital service corporations and medical service corporations except as stated in article twenty-four of this chapter;
(2) Fraternal benefit societies except as stated in article twenty-three of this chapter;

(3) Farmers’ mutual fire insurance companies except as stated in article twenty-two of this chapter;

(4) Warranties;

(5) Service contracts;

(6) Maintenance agreements.

(b) For the purposes of this article:

(1) “Holder” means a resident of this state who either purchases a service agreement or is legally in possession of a service contract and is entitled to enforce the rights of the original purchaser of the service contract.

(2) “Maintenance agreement” means a contract for a limited period that provides only for scheduled maintenance.

(3) “Provider” means a person who is obligated to a holder pursuant to the terms of a service contract to repair, replace or perform maintenance on or to indemnify the holder for the costs of repairing, replacing or performing maintenance on goods.

(4) “Service contract” means an agreement entered into for a separately stated consideration and for a specified term under which a provider agrees to repair, replace or maintain a product or provide indemnification for the repair, replacement or maintenance of a product for operational or structural failure caused by a defect in materials or workmanship or by normal wear. A service contract may additionally provide for incidental payment or indemnity under limited circumstances including towing, rental and emergency road service or for the repair or replacement of a product for damage resulting from power surges or accidental damage incurred in handling the product.
(5) "Warranty" means in relation to a product or service an undertaking that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor costs or other remedial measures, such as repair or replacement of the product or repetition of services and that is made solely by the manufacturer, importer or seller of the product or services made without payment of additional consideration, not negotiated or separated from the sale of the product or service and incidental to the sale of the product or service.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

[Signatures]

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the 17th day of [Month], 2000.

Governor
PRESENTED TO THE
GOVERNOR
Date, 3/4/10
Time, 10:13 am