

Article - Commercial Law

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§14–401.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Consumer product” means goods or services used for personal, family, or household purposes, the actual cash sales price of which to the person guaranteed was in excess of \$10.
- (c) “Guarantor” means a person who is engaged in the business of making consumer products available to consumers and who makes a guaranty.
- (d) (1) “Guaranty” means any of the following which is made at the time of the sale of a consumer product by a guarantor to a person guaranteed and which is part of the basis of the bargain between them:
 - (i) A written affirmation of fact or written promise which relates to the nature of the material or workmanship and affirms or promises that the material or workmanship is defect-free or meets a specified level of performance; or
 - (ii) A written undertaking to refund, repair, replace, or take other remedial action with respect to the consumer product if it proves defective in material or workmanship or fails to meet a specified level of performance.
- (2) “Guaranty” includes warranty.
- (3) “Guaranty” does not include:
 - (i) A written statement or expression of general policy concerning customer satisfaction which is not subject to specified limitations; or
 - (ii) A service contract.
- (e) “Mechanical breakdown insurance” means a policy, contract, or agreement issued by an authorized insurer that provides for the repair, replacement, or maintenance of property or indemnification for repair, replacement, or services, for the operational or structural failure of a product due to a defect in the materials or workmanship or due to normal wear and tear.
- (f) “Person” includes an individual, corporation, business trust, statutory trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.
- (g) “Person guaranteed” means:
 - (1) The person who is the first buyer at retail of a consumer product which

is the subject of a guaranty;

(2) A person who is entitled to enforce the obligations of a guaranty against the guarantor; or

(3) The person who is entitled to enforce the obligations of the provider under a service contract.

(h) “Provider” means a person or persons acting in concert who are contractually obligated under the terms of a service contract to provide services to the owner of a product covered by the service contract.

(i) “Reasonable and necessary maintenance” means those operations which the person guaranteed reasonably can be expected to perform or have performed and which are necessary to keep the product performing its intended function.

(j) “Replace” means:

(1) To replace a product or its component with a new and identical or equivalent product or component; or

(2) To refund the price of the product or its component less reasonable depreciation if:

(i) Neither replacement nor repair is commercially practicable; or

(ii) The person guaranteed is willing to accept the refund in place of the replacement or repair.

(k) (1) “Service contract” means a contract or agreement for a separately stated consideration for a specific duration to perform the repair, replacement, or maintenance of a product, or to indemnify for the repair, replacement, or maintenance, because of an operational or structural failure due to a defect in materials, workmanship, or normal wear and tear, with or without additional provisions for incidental payment of indemnity under limited circumstances.

(2) “Service contract” includes a contract or agreement for repair, replacement, or maintenance of a product for damage resulting from power surges and accidental damage from handling.

(3) “Service contract” does not include:

(i) A guaranty;

(ii) A maintenance agreement that does not include a provision for the repair, replacement, or maintenance of a product because of an operational or structural failure due to a defect in materials, workmanship, or normal wear and tear;

(iii) A warranty, service contract, or maintenance agreement offered by a public utility on its transmission devices to the extent it is regulated by the Public Service Commission;

(iv) A mechanical repair contract under § 15-311.2 of the Transportation Article; or

(v) Mechanical breakdown insurance.

(l) (1) “Services” means work, labor, or any other kind of activity furnished or agreed to be furnished to a person guaranteed.

(2) “Services” includes services for home improvement, repair of a motor vehicle and other products, and the repair or installation of plumbing, heating, electrical, or mechanical devices.

(3) “Services” does not include the professional services of an accountant, architect, clergyman, engineer, lawyer, or medical or dental practitioner.

(m) (1) “Without charge” means that the guarantor cannot charge the person guaranteed for any costs which the guarantor or the guarantor’s representative incurs in connection with the required repair or replacement of a consumer product.

(2) “Without charge” does not mean that the guarantor must compensate the person guaranteed for incidental expenses unless the expenses were incurred because the repair or replacement was not made within a reasonable time.

(n) “Wrongful breach of a guaranty” means the failure of a guarantor to perform the duties imposed by § 14-404(a), (b), and (c) of this subtitle.

(o) “Wrongful breach of a service contract” means the failure of a provider to perform the duties imposed by § 14-404(a), (b), and (c) of this subtitle.

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