

**HB0630/897773/1**

BY: Finance Committee

AMENDMENTS TO HOUSE BILL 630  
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Transportation –”; in the same line, after “Contracts” insert “– Requirements”; in line 3, after the first “of” insert “altering the definition of “service contract” to include a certain mechanical repair contract;”; in line 19, after “Commissioner” insert “except under certain circumstances”; in the same line, after “approval” insert “or review”; strike beginning with “providing” in line 19 down through “order” in line 20 and substitute “providing for a certain filing fee; authorizing the Commissioner to investigate and determine if a mechanical repair contract is in compliance with certain provisions of law; providing for a certain hearing”; and in line 22, after “registration;” insert “requiring the Commissioner to register an obligor under certain circumstances; authorizing the Commissioner to deny, refuse to renew, suspend, or revoke a registration of an obligor under certain circumstances;”.

On page 2, in line 5, after “Commissioner;” insert “establishing certain required disclosures;”; and after line 8, insert:

“BY repealing and reenacting, with amendments,

Article - Commercial Law

Section 14-401(k) and 14-409(a) and (b)

Annotated Code of Maryland

(2013 Replacement Volume and 2014 Supplement)

BY repealing and reenacting, with amendments,

Article - Insurance

Section 2-112(a)(9)

Annotated Code of Maryland

(2011 Replacement Volume and 2014 Supplement)

(Over)

BY adding to

Article - Insurance

Section 2-112(a)(11)

Annotated Code of Maryland

(2011 Replacement Volume and 2014 Supplement)”.

AMENDMENT NO. 2

On page 2, after line 20, insert:

“Article – Commercial Law

14–401.

(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]:

(I) A contract or agreement for repair, replacement, or maintenance of a product for damage resulting from power surges and accidental damage from handling; AND

(II) A MECHANICAL REPAIR CONTRACT UNDER § 15-311.2 OF THE TRANSPORTATION ARTICLE.

(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; OR

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

(v)] Mechanical breakdown insurance.

14-409.

(a) Except for Title 13 of this article AND § 15-311.2 OF THE TRANSPORTATION ARTICLE WITH RESPECT TO MECHANICAL REPAIR CONTRACTS, this subtitle provides the exclusive remedy by which a person guaranteed may recover damages for a breach of a service contract or may enforce a service contract.

(b) (1) Providers, administrators, and other persons marketing, selling, or offering to enter into service contracts that comply with the terms of this subtitle need not comply with any provision of the Insurance Article, EXCEPT WITH RESPECT TO MECHANICAL REPAIR CONTRACTS AS EXPRESSLY PROVIDED IN § 15-311.2 OF THE TRANSPORTATION ARTICLE.

(Over)

(2) Guarantors, administrators, and other persons marketing, selling, or offering to issue guarantees that comply with the terms of this subtitle need not comply with any provision of the Insurance Article.

Article - Insurance

2-112.

(a) Fees for the following certificates, licenses, permits, and services shall be collected in advance by the Commissioner, and shall be paid by the appropriate persons, including health maintenance organizations, to the Commissioner:

(9) fees for required filings, including form and rate filings, under Title 11, Subtitles 2 through 4, Title 26, [and] §§ 12-203, 13-110, 14-126, and 27-613 of this article, AND § 15-311.2 OF THE TRANSPORTATION ARTICLE .....\$125

(11) ANNUAL FEE FOR REGISTRATION OF AN OBLIGOR UNDER § 15-311.2 OF THE TRANSPORTATION ARTICLE.....\$25”.

On page 3, in lines 23, 25, and 27, strike “**(I)**”, “**(II)**”, and “**(III)**”, respectively, and substitute “**1.**”, “**2.**”, and “**3.**”, respectively; and in line 26, after “MAINTENANCE” insert “**ONLY**”.

On page 4, in line 18, strike “**BEFORE**” and substitute “**AT LEAST 45 DAYS BEFORE**”; and in line 22, strike “**A**” and substitute “**EXCEPT AS PROVIDED IN SUBPARAGRAPHS (IV) THROUGH (VII) OF THIS PARAGRAPH, A**”.

On pages 4 and 5, strike in their entirety the lines beginning with line 24 on page 4 through line 3 on page 5, inclusive, and substitute:

“(III) AN OBLIGOR THAT IS REQUIRED TO FILE A MECHANICAL REPAIR CONTRACT UNDER THIS SUBSECTION SHALL PAY A FILING FEE AS PROVIDED IN § 2-112(A)(9) OF THE INSURANCE ARTICLE.

(IV) THE COMMISSIONER MAY INVESTIGATE AND DETERMINE WHETHER A MECHANICAL REPAIR CONTRACT FILED UNDER THIS PARAGRAPH IS IN COMPLIANCE WITH THIS SECTION.

(V) IF, AFTER A HEARING, THE COMMISSIONER FINDS THAT A MECHANICAL REPAIR CONTRACT IS NOT IN COMPLIANCE WITH THIS SECTION, THE COMMISSIONER SHALL ISSUE AN ORDER THAT REQUIRES THAT USE OF THE MECHANICAL REPAIR CONTRACT BE DISCONTINUED AFTER A DATE SPECIFIED IN THE ORDER.

(VI) PENDING A HEARING, THE COMMISSIONER MAY ISSUE AN ORDER THAT SUSPENDS USE OF A MECHANICAL REPAIR CONTRACT FILED BY AN OBLIGOR IF THE COMMISSIONER HAS REASONABLE CAUSE TO BELIEVE THAT:

1. THE MECHANICAL REPAIR CONTRACT IS IN VIOLATION OF THIS SECTION;

2. UNLESS THE ORDER OF SUSPENSION IS ISSUED, PURCHASERS OF THE MECHANICAL REPAIR CONTRACT WILL SUFFER IRREPARABLE HARM;

3. THE HARM THAT PURCHASERS OF THE MECHANICAL REPAIR CONTRACT WILL SUFFER IN THE ABSENCE OF THE ORDER OF SUSPENSION OUTWEIGHS THE HARM THAT THE OBLIGOR WOULD SUFFER IF THE ORDER OF SUSPENSION WERE ISSUED; AND

(Over)

4. THE ORDER OF SUSPENSION WILL NOT CAUSE SUBSTANTIAL HARM TO THE PUBLIC.

(VII) UNLESS THE OBLIGOR WAIVES A HEARING, THE COMMISSIONER:

1. SHALL HOLD A HEARING WITHIN 15 BUSINESS DAYS AFTER ISSUING THE ORDER OF SUSPENSION; AND

2. WITHIN 15 BUSINESS DAYS AFTER THE CONCLUSION OF THE HEARING, SHALL MAKE A DETERMINATION AND ISSUE AN ORDER AS TO WHETHER THE MECHANICAL REPAIR CONTRACT SHOULD BE DISAPPROVED.”.

On page 5, in line 5, after “COMMISSIONER” insert “EACH YEAR”; in line 19, strike “OF \$25” and substitute “AS PROVIDED IN § 2-112(A)(11) OF THE INSURANCE ARTICLE”; and after line 24, insert:

“(6) SUBJECT TO PARAGRAPH (7) OF THIS SUBSECTION, THE COMMISSIONER SHALL REGISTER EACH OBLIGOR THAT MEETS THE REQUIREMENTS OF THIS SECTION.

(7) THE COMMISSIONER MAY DENY A REGISTRATION TO AN APPLICANT OR REFUSE TO RENEW, SUSPEND, OR REVOKE THE REGISTRATION OF A REGISTRANT, AFTER NOTICE AND AN OPPORTUNITY FOR A HEARING UNDER §§ 2-210 THROUGH 2-214 OF THE INSURANCE ARTICLE, IF THE APPLICANT OR REGISTRANT, OR AN OFFICER, DIRECTOR, OR EMPLOYEE OF THE APPLICANT OR REGISTRANT:

(I) MAKES A MATERIAL MISSTATEMENT OR MISREPRESENTATION IN AN APPLICATION FOR REGISTRATION;

(II) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A REGISTRATION FOR THE APPLICANT, THE REGISTRANT, OR ANOTHER PERSON;

(III) HAS BEEN CONVICTED OF A FELONY OR OF A MISDEMEANOR INVOLVING MORAL TURPITUDE IN CONNECTION WITH THE SALE, SOLICITATION, NEGOTIATION, OR ADMINISTRATION OF A MECHANICAL REPAIR CONTRACT;

(IV) COMMITS FRAUD OR ENGAGES IN ILLEGAL OR DISHONEST ACTIVITIES IN CONNECTION WITH THE ADMINISTRATION OF A MECHANICAL REPAIR CONTRACT; OR

(V) HAS VIOLATED ANY PROVISION OF THIS SECTION OR A REGULATION ADOPTED UNDER THIS SECTION.

(8) INSTEAD OF, OR IN ADDITION TO, SUSPENDING OR REVOKING A REGISTRATION, THE COMMISSIONER MAY IMPOSE ON THE REGISTRANT A CIVIL PENALTY OF NOT LESS THAN \$100 BUT NOT EXCEEDING \$1,000 FOR EACH VIOLATION OF THIS SECTION.”.

On page 6, strike beginning with “IS” in line 12 down through “WHO” in line 13; in line 30, strike “(A)(1)” and substitute “(A)(2)”; and after line 34, insert:

“(N) IN ADDITION TO ANY APPLICABLE DISCLOSURES REQUIRED BY THE MARYLAND CONSUMER PRODUCTS GUARANTY ACT, (TITLE 14, SUBTITLE 4 OF

THE COMMERCIAL LAW ARTICLE), A MECHANICAL REPAIR CONTRACT SHALL INCLUDE THE FOLLOWING DISCLOSURES:

(1) THE NAME, CORPORATE ADDRESS, AND TELEPHONE NUMBER OF THE OBLIGOR AND THE MECHANICAL REPAIR CONTRACT SELLER; AND

(2) THE RIGHT OF THE PURCHASER OF THE MECHANICAL REPAIR CONTRACT TO MAKE A DIRECT CLAIM AGAINST THE INSURER ISSUING A POLICY OF INSURANCE AS PROVIDED IN SUBSECTION (B)(3) OF THIS SECTION.”