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By: **Senator Astle**  
Introduced and read first time: February 2, 2001  
Assigned to: Finance

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A BILL ENTITLED

1 AN ACT concerning

2 **Service Contracts**

3 FOR the purpose of requiring providers of service contracts in the State to insure all  
4 service contracts in a certain manner, maintain a certain reserve account and  
5 provide a certain financial security deposit to the Secretary of Labor, Licensing,  
6 and Regulation under certain circumstances, maintain a certain net worth and  
7 provide certain security filings or certain audited financial statements to the  
8 Secretary under certain circumstances; requiring each service contract sold or  
9 offered for sale in the State to contain certain provisions; authorizing the  
10 Attorney General to enforce this Act; defining certain terms; providing for the  
11 scope of this Act; and generally relating to the regulation of service contracts  
12 and providers of service contracts in the State.

13 BY adding to  
14 Article - Business Regulation  
15 Section 20-101 through 20-107, inclusive, to be under the new title "Title 20.  
16 Service Contracts"  
17 Annotated Code of Maryland  
18 (1998 Replacement Volume and 2000 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article - Business Regulation**

22 **TITLE 20. SERVICE CONTRACTS.**

23 20-101.

24 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

25 (B) "PROVIDER" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,  
26 INCORPORATED OR UNINCORPORATED ASSOCIATION, JOINT STOCK COMPANY,  
27 RECIPROCAL, SYNDICATE, OR SIMILAR ENTITY, OR COMBINATION OF ENTITIES

1 ACTING IN CONCERT, THAT IS CONTRACTUALLY OBLIGATED TO THE PURCHASER OR  
2 HOLDER OF A SERVICE CONTRACT UNDER THE TERMS OF THE SERVICE CONTRACT.

3 (C) (1) "SERVICE CONTRACT" MEANS A CONTRACT OR AGREEMENT FOR A  
4 SEPARATELY STATED CONSIDERATION FOR A SPECIFIC DURATION TO PERFORM THE  
5 REPAIR, REPLACEMENT, OR MAINTENANCE OF PROPERTY, OR TO INDEMNIFY FOR  
6 REPAIR, REPLACEMENT, OR MAINTENANCE, BECAUSE OF AN OPERATIONAL OR  
7 STRUCTURAL FAILURE DUE TO A DEFECT IN MATERIALS, WORKMANSHIP, OR  
8 NORMAL WEAR AND TEAR, WITH OR WITHOUT ADDITIONAL PROVISIONS FOR  
9 INCIDENTAL PAYMENT OF INDEMNITY UNDER LIMITED CIRCUMSTANCES.

10 (2) "SERVICE CONTRACT" INCLUDES A CONTRACT OR AGREEMENT FOR:

11 (I) TOWING, RENTAL, AND EMERGENCY ROAD SERVICE; AND

12 (II) REPAIR, REPLACEMENT, OR MAINTENANCE OF PROPERTY FOR  
13 DAMAGE RESULTING FROM POWER SURGES AND ACCIDENTAL DAMAGE FROM  
14 HANDLING.

15 20-102.

16 THIS TITLE DOES NOT APPLY TO:

17 (1) WARRANTIES FOR WHICH NO ADDITIONAL CONSIDERATION IS PAID;

18 (2) MAINTENANCE AGREEMENTS THAT DO NOT INCLUDE A PROVISION  
19 FOR THE REPAIR, REPLACEMENT, OR MAINTENANCE OF PROPERTY BECAUSE OF AN  
20 OPERATIONAL OR STRUCTURAL FAILURE DUE TO A DEFECT IN MATERIALS,  
21 WORKMANSHIP, OR NORMAL WEAR AND TEAR;

22 (3) WARRANTIES, SERVICE CONTRACTS, OR MAINTENANCE  
23 AGREEMENTS OFFERED BY PUBLIC UTILITIES ON THEIR TRANSMISSION DEVICES TO  
24 THE EXTENT THEY ARE REGULATED BY THE PUBLIC SERVICE COMMISSION;

25 (4) SERVICE CONTRACTS SOLD OR OFFERED FOR SALE TO PERSONS  
26 OTHER THAN CONSUMERS; OR

27 (5) MECHANICAL REPAIR CONTRACTS UNDER § 15-311.2 OF THE  
28 TRANSPORTATION ARTICLE.

29 20-103.

30 (A) EACH PROVIDER OF SERVICE CONTRACTS IN THE STATE SHALL COMPLY  
31 WITH THE REQUIREMENTS OF SUBSECTION (B), (C), (D), OR (E) OF THIS SECTION.

32 (B) A PROVIDER SHALL INSURE ALL SERVICE CONTRACTS UNDER A  
33 REIMBURSEMENT INSURANCE POLICY ISSUED BY AN INSURER AUTHORIZED TO  
34 TRANSACT INSURANCE BUSINESS IN THE STATE OR OTHERWISE ISSUED UNDER THE  
35 INSURANCE ARTICLE.

36 (C) (1) A PROVIDER SHALL:

1 (I) MAINTAIN A FUNDED RESERVE ACCOUNT FOR ITS  
2 OBLIGATIONS UNDER ITS SERVICE CONTRACTS ISSUED AND OUTSTANDING IN THE  
3 STATE; AND

4 (II) ON REQUEST OF THE SECRETARY, PLACE IN TRUST WITH THE  
5 SECRETARY A FINANCIAL SECURITY DEPOSIT WITH A VALUE OF NOT LESS THAN 5%  
6 OF THE GROSS CONSIDERATION RECEIVED, LESS CLAIMS PAID, ON THE SALE OF THE  
7 SERVICE CONTRACT FOR ALL SERVICE CONTRACTS ISSUED AND IN FORCE, BUT NOT  
8 LESS THAN \$25,000.

9 (2) THE RESERVES MAINTAINED UNDER PARAGRAPH (1)(I) OF THIS  
10 SUBSECTION MAY NOT BE LESS THAN 40% OF GROSS CONSIDERATION RECEIVED,  
11 LESS CLAIMS PAID, ON THE SALE OF THE SERVICE CONTRACT FOR ALL IN-FORCE  
12 SERVICE CONTRACTS.

13 (3) THE RESERVE ACCOUNT IS SUBJECT TO EXAMINATION AND REVIEW  
14 BY THE SECRETARY.

15 (4) A FINANCIAL SECURITY DEPOSIT REQUIRED UNDER PARAGRAPH  
16 (1)(II) OF THIS SUBSECTION SHALL CONSIST OF ONE OF THE FOLLOWING:

17 (I) SURETY BONDS ISSUED BY AN AUTHORIZED SURETY;

18 (II) SECURITIES OF THE TYPE ELIGIBLE FOR DEPOSIT BY  
19 AUTHORIZED INSURERS IN THE STATE;

20 (III) CASH;

21 (IV) A LETTER OF CREDIT ISSUED BY A QUALIFIED FINANCIAL  
22 INSTITUTION; OR

23 (V) ANOTHER FORM OF SECURITY REQUIRED BY REGULATIONS  
24 ADOPTED BY THE SECRETARY.

25 (D) (1) A PROVIDER SHALL:

26 (I) MAINTAIN, OR ITS PARENT COMPANY SHALL MAINTAIN, A NET  
27 WORTH OR STOCKHOLDERS' EQUITY OF \$100 MILLION; AND

28 (II) ON REQUEST OF THE SECRETARY, PROVIDE THE SECRETARY  
29 WITH:

30 1. A COPY OF THE PROVIDER'S OR ITS PARENT COMPANY'S  
31 MOST RECENT FORM 10-K OR FORM 20-F FILED WITH THE SECURITIES AND  
32 EXCHANGE COMMISSION WITHIN THE LAST CALENDAR YEAR; OR

33 2. IF THE PROVIDER OR ITS PARENT COMPANY DOES NOT  
34 FILE WITH THE SECURITIES AND EXCHANGE COMMISSION, A COPY OF THE  
35 PROVIDER'S OR ITS PARENT COMPANY'S AUDITED FINANCIAL STATEMENTS, WHICH

1 SHOW A NET WORTH OF THE PROVIDER OR ITS PARENT COMPANY OF AT LEAST \$100  
2 MILLION.

3 (2) IF THE PROVIDER'S PARENT COMPANY'S FORM 10-K, FORM 20-F, OR  
4 AUDITED FINANCIAL STATEMENTS ARE FILED TO MEET THE PROVIDER'S FINANCIAL  
5 REQUIREMENTS UNDER THIS SUBSECTION, THEN THE PARENT COMPANY SHALL  
6 AGREE TO GUARANTEE THE OBLIGATIONS OF THE PROVIDER RELATED TO SERVICE  
7 CONTRACTS SOLD BY THE PROVIDER IN THE STATE.

8 (E) A PROVIDER SHALL:

9 (1) MAINTAIN A LICENSE IN GOOD STANDING ISSUED UNDER:

10 (I) TITLE 8 OF THE BUSINESS REGULATION ARTICLE;

11 (II) TITLE 9A OF THE BUSINESS REGULATION ARTICLE; OR

12 (III) TITLE 12 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS  
13 ARTICLE; AND

14 (2) PROVIDE ONLY SERVICE CONTRACTS THAT COVER PRODUCTS OR  
15 PROPERTY FOR WHICH THE PROVIDER IS LICENSED TO PROVIDE SERVICE UNDER  
16 ITEM (1) OF THIS SUBSECTION, IF THE LICENSE AUTHORIZES THE ISSUANCE OF  
17 SERVICE CONTRACTS THAT COVER THOSE PRODUCTS OR PROPERTY.

18 20-104.

19 EACH SERVICE CONTRACT SOLD OR OFFERED FOR SALE IN THE STATE SHALL:

20 (1) STATE THE PURCHASE PRICE AND THE TERMS UNDER WHICH THE  
21 SERVICE CONTRACT IS SOLD;

22 (2) SPECIFY THE MERCHANDISE AND SERVICES TO BE PROVIDED, THE  
23 PROCEDURE TO OBTAIN SERVICES OR FILE A CLAIM, AND ANY LIMITATIONS,  
24 EXCEPTIONS, OR EXCLUSIONS; AND

25 (3) STATE THE TERMS, RESTRICTIONS, OR CONDITIONS GOVERNING  
26 CANCELLATION OF THE SERVICE CONTRACT BEFORE THE TERMINATION OR  
27 EXPIRATION DATE OF THE SERVICE CONTRACT BY EITHER THE PROVIDER OR THE  
28 HOLDER OF THE SERVICE CONTRACT.

29 20-105.

30 THE ATTORNEY GENERAL MAY TAKE ACTION AS NECESSARY OR APPROPRIATE  
31 TO ENFORCE THIS TITLE AND TO PROTECT HOLDERS OF SERVICE CONTRACTS IN THE  
32 STATE.

33 20-106.

34 PROVIDERS AND RELATED SERVICE CONTRACT SELLERS, ADMINISTRATORS,  
35 AND OTHER PERSONS MARKETING, SELLING, OR OFFERING TO SELL SERVICE

1 CONTRACTS THAT COMPLY WITH THE TERMS OF THIS TITLE, OR ISSUERS OF THE  
2 TYPES OF AGREEMENTS COVERED BY § 20-102 OF THIS TITLE, NEED NOT COMPLY  
3 WITH ANY PROVISION OF THE INSURANCE ARTICLE.

4 20-107.

5 ANY SERVICE CONTRACT SOLD OR OFFERED FOR SALE IN COMPLIANCE WITH  
6 THIS TITLE IS NOT A GUARANTY, AS DEFINED IN THE MARYLAND CONSUMER  
7 PRODUCTS GUARANTY ACT.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 October 1, 2001.