

MEMO



DEC 14 2010

Senate of Pennsylvania

December 14, 2010

TO: ALL SENATORS

FROM: Stewart J. Greenleaf *Stewart*

SUBJECT: Cosponsorship -- Regulation of Service Contracts

I am reintroducing **Senate Bill 1436**, enacting the Service Contract Act which provides for the regulation of service contracts by creating a legal framework with which specific service contracts may be sold and regulated in this Commonwealth.

A constituent informed me of a situation where an extended warranty or service contract he purchased for an appliance no longer existed because the company went bankrupt, resulting in him having to repurchase a new service contract policy. In an effort to help protect consumers who invest in service contracts, my legislation would require each provider of service contracts to register with the Insurance Commissioner and pay a \$600 fee upon initial registration and every two years thereafter. In order to assure the faithful performance of a provider's obligations to its contract holders, each provider shall be responsible for complying with one of the following three requirements:

- 1) Insure all service contracts under a reimbursement insurance policy issued by a licensed or registered insurer that maintains a certain surplus and annually files financial statements with the commissioner; or
- 2) Maintain a funded reserve account for its contractual obligations of not less than 40% of gross consideration received and place in trust with the commissioner a financial security deposit no less than 5% of the gross consideration received but not less than \$25,000 consisting of either a surety bond, securities, cash, a letter of credit or another form of security authorized by the commissioner; or
- 3) Maintain, or its parent company maintain, a net worth or stockholder's equity of \$100 million and provide the commissioner, upon request, a copy of the provider's or parent company's most recent Form 10-K or Form 20-F and a copy of the company's financial statements.

Service contracts cannot be issued, sold or offered for sale unless the provider has provided a receipt and copy of the service contract to the contract holder. A contract must be printed or typed in understandable language stating the total purchase price and terms and any deductibles or restrictions. A contract holder may return the service contract within 20 days of the mail date or within ten days of delivery if the contract is provided at the time of sale. The provider is required to keep accurate accounts including maintaining written claims for at least two years after the specified period of coverage has expired. The commissioner may conduct examinations of providers and insurers to enforce the provisions of this act as well as issue cease and desist orders and impose a civil penalty of no more than \$1,000 per violation and no more than \$25,000 in the aggregate for all violations of a similar nature.

According to the National Conference of State Legislatures, 21 states have passed similar laws.

If you would like to cosponsor this legislation, please contact Pat Snively of my office by e-mailing her at psnively@pasen.gov.