

Vermont Insurance Division
Department of Financial Regulation
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General Information for Service Contract Organizations

This material is intended to inform organizations issuing service contracts in Vermont of the purpose and requirements of Title 8 V.S.A., Subchapter 4. Service contract organizations are companies that issue contracts customarily requiring payment for the promise of future service, repair or replacement of consumer products. The law addresses service contracts, extended warranties and similar agreements issued, sold or provided to consumers in Vermont. Under the law, the contracts are not defined as insurance and the sellers of the contracts are not considered insurance agents.

The law requires service contract organizations to register with the Vermont Department of Financial Regulation. It also makes them responsible for key consumer protections. The protections include a.) establishing standards of financial stability, b.) requiring the use of contracts that contain mandatory provisions and disclosures and c.) establishing or prohibiting specific market conduct practices.

Who is affected, who is not:

In general, the law pertains to organizations that issue, make, provide or sell service contracts, extended warranties or similar contracts to consumers. The organization becomes contractually obligated to pay for repair, replacement or maintenance due to operational or structure failure of consumer products. It does not apply to a.) service contracts sold or offered for sale in commercial transactions, b.) agreements to provide scheduled maintenance, c.) manufacturers' product warranties and d.) service contracts of one year or less associated with an agreement to supply liquid fuel.

Requirements:

All contracting organizations are required to file and keep current a registration form with the Vermont Department of Financial Regulation, Insurance Division. The registration covers a three-year period and must be accompanied with a \$600 fee.

The registration form identifies the organization issuing contracts and furnishes information about the organization. It also requires an officer of the organization to certify the organization is in compliance with the law at the time of registration.

In accordance with Title 8 V.S.A. §4249, Vermont's registered service contract providers (SCP's) must provide proof of financial stability and are required to submit and keep current documentation of their financial stability and compliance to the statute.

Accordingly, all service contract provider applications must include one of the following:

(1) Deposit and Reserve Account:

SCP's must submit a surety bond (on the form permitted by the Department), securities of the type eligible for deposit by an authorized insurer in Vermont, cash or letter of credit in value not less than five percent (5%) of the gross annual consideration from all service contracts issued and in force, but in no case less than \$25,000. The deposit must be accompanied by a calculation justifying the amount of the deposit. Additionally, SCP's must

provide evidence that a funded reserve account, specifically designated for the benefit of Vermont contract holders, exists. The evidence may be a properly titled bank or custodial statement. The reserve amount value should equal at least forty percent (40%) of all consideration received, less claims paid, for Vermont in force contracts. A calculation that demonstrates the proper amount of the reserve account must also be provided.

(2) Insurance Policy:

SCP's must submit a copy of a service contract reimbursement policy indicating that all of its contracts are insured. The policy must be issued by an insurer that files an annual financial statement with the National Association of Insurance Commissioners (NAIC) prepared in accordance with the accounting practices and procedures required or permitted by their domiciliary regulatory authority. The insurers must also have filed a corresponding audit report that reflects capital and surplus of \$5,000,000.00 or more, written premiums not exceeding three times capital and surplus over the most recent five years and have had profitable operations over the most recent five years.

(3) Financial Statement and Guaranty:

SCP's must submit a copy of the provider's financial statement or, if the provider's financial statement is consolidated with those of a parent company or affiliate, the provider's parent company or affiliate's financial statement, for the most recent calendar year which shows a net worth of the provider or its parent company or affiliate of at least \$50 million. A guaranty agreement required by §4249(a)(3)(b) must also be submitted.

Service contract providers will be required to submit their documentation on the following occasions:

- When they initially register,
- When a material change occurs during their three-year registration period and
- Upon renewal of their registration.

Failure to provide the documentation will result in the provider not being permitted to sell contracts in Vermont.

Consumer Protections:

The law requires contracts to use clear language, state all the contract terms and provide a copy to the consumer within fourteen (14) days. All contracts must contain a mandatory twenty (20)-day refund period (if a claim is not filed during that time), make the consumer a party to the contract and allow civil actions regarding coverage or claim denials to be brought in Vermont courts by the consumer. Also, an organization's reinsurer (if any) becomes directly responsible to the consumer if it fails to fulfill the contract's obligations. Descriptions in the contract that claim it is insurance or other misleading advertising or statements are prohibited. Consumers have the right to seek damages and attorneys' fees under Vermont's Consumer Fraud Act.

Enforcement and Penalties:

The law gives the Vermont Commissioner of Financial Regulation authority to examine the records of registered organizations to determine compliance with the law, at the organization's expense. Enforcement actions that are available to the Commissioner to assure compliance include registration suspension or revocation, orders to stop operations in Vermont and to impose fines up to \$1,000 for each violation or \$10,000 for each willful violation.

This is a summary of some of the key provisions of the law. If you need further information please refer to the law which can be found in 8 V.S.A §4247-§4256. You may also contact the Company Licensing section of the Department at 802-828-2470 or dfr.complic@vermont.gov.