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INSURANCE

Vehicle Service or Extended Warranty Agreements: Empower Commissioner to Regulate

CODE SECTION: O.C.G.A. § 33-7-6(d) (new)
BILL NUMBER: HB 314
ACT NUMBER: 505
SUMMARY: The Act empowers the Commissioner of Insurance of the State of Georgia to regulate vehicle service or extended warranty agreements.
EFFECTIVE DATE: July 1, 1989

History

When a consumer buys a new car, the dealer typically offers a motor vehicle service policy to supplement or extend the manufacturer's warranty provided to the consumer.¹ These motor vehicle service agreements often lead to consumer abuse because of the potential for policy-issuer misrepresentations and the nonpayment of legitimate policy claims.² Prior to this Act, the State had no specific mechanism for regulating the motor vehicle service contract industry.³ Without regulation, unscrupulous insurers could stall consumer claims until the contract mileage or time limit had expired.⁴ The consumer was then in the awkward position of seeking a remedy from the contract provider or insurer under an expired contract.⁵ Because the typical motor vehicle insurer is incorporated out of state,⁶ it is difficult to establish jurisdiction

1. Telephone interview with Representative Harry Dixon, House District No. 151 (Apr. 19, 1989) [hereinafter Dixon Interview].

2. Synopsis of HB 314 issued by Representative Harry Dixon, House District No. 151, 1989 Ga. Gen. Assem. (available in Georgia State University College of Law Library) [hereinafter HB 314 Synopsis]. An example of extended warranty abuse is:

an electrical part claim (insulated from grease) against a \$400 premium 20,000 mile warranty of one or two-year denomination or whichever came first, for electrical failure, is often *negated* not because the car wasn't periodically "greased," but it wasn't greased by an authorized lubrication dealer and initialed by some designated officer of the establishment in the appropriate column in warranty records.

Id.

3. *Id.*; Dixon Interview, *supra* note 1.

4. HB 314 Synopsis, *supra* note 2.

5. *Id.*

6. *Id.*; Dixon Interview, *supra* note 1.

over the insurer, even if a consumer vigorously pursues the claim.⁷ The Georgia Legislature introduced HB 314 to address these problems of consumer abuse in the motor vehicle service contract industry because “[t]hrough misrepresentation and riding on legitimate factory warranties, the verbage [sic] contained in a standard extended warranty is ‘a kin’ to trickery.”⁸

HB 314

The Act amends section 33-7-6 by adding subsection (d) which provides the Georgia Commissioner of Insurance the authority to regulate “vehicle service agreements or extended warranty agreements.”⁹ The Act provides the Commissioner with the authority to regulate filing requirements, agreement disclosures for the benefit of the insured, record keeping, and public complaint procedures.¹⁰

HB 314, as introduced, would have added chapter 34A “to regulate motor vehicle service contracts” and reimbursement insurance policies.¹¹ The original bill would have prohibited the issuing, selling, or offering for sale of motor vehicle service contracts without the issuer’s fulfillment of state regulations designed to protect the consumer.¹² These consumer protection regulations would have required the provider of motor vehicle service contracts to maintain a “contract reimbursement insurance policy issued by an insurer authorized to do business in [Georgia].”¹³ This requirement would have provided state jurisdiction over the insurer and ensured the consumer the mechanism for a civil remedy from either the policy provider or insurer within the state.¹⁴ In addition, the original bill would have empowered the Commissioner to “establish minimum standards for the disclosure of motor vehicle service contract coverage limitations” and to enforce the service contract regulations.¹⁵ HB 314, as introduced, did not apply to motor vehicle service contracts issued by associated manufacturers or importers.¹⁶

The House Committee on Insurance offered a substitute bill to the original version of HB 314.¹⁷ The committee substitute replaced the specific regulations proposed in the original bill, and instead provided the Insurance Commissioner the discretionary authority to regulate

7. HB 314 Synopsis, *supra* note 2.

8. *Id.*

9. O.C.G.A. § 33-7-6(d) (Supp. 1989).

10. *Id.*

11. HB 314, as introduced, 1989 Ga. Gen. Assem.

12. *Id.*

13. *Id.*

14. HB 314 Synopsis, *supra* note 2.

15. HB 314, as introduced, 1989 Ga. Gen. Assem.

16. *Id.*

17. HB 314 (HCS), 1989 Ga. Gen. Assem.

vehicle service contracts within the guidelines described in section 33-7-6(b).¹⁸ The Commissioner suggested the substitute because the original bill duplicated existing property insurance law.¹⁹ The substitute bill became the approved version of HB 314.²⁰ Upon the authority granted by this Act, the Commissioner is currently drafting regulations which will provide greater protection to buyers of extended warranties.²¹

W. Petty

18. *Id.* O.C.G.A. § 33-7-6(b)(1) (Supp. 1989) states:

Property insurance also includes: Any contract, agreement, or instrument whereby a person assumes the risk of and the expense or portion thereof for the mechanical breakdown or failure of a motor vehicle and shall include those agreements commonly known as vehicle service agreements or extended warranty agreements, if made by a person other than the motor vehicle manufacturer in exchange for a separately stated charge or the cost of the contract or contracts is included on a nonidentifiable basis in the cost of a motor vehicle sold in conjunction therewith, except that this provision shall not apply to an agreement underwritten by an insurer licensed to transact insurance in this state either directly or through a reinsurance contract.

Id.

19. Telephone interview with Marty Wilson, Deputy Insurance Commissioner, State of Georgia, Insurance Dept. (Apr. 19, 1989) [hereinafter Wilson Interview]; Dixon Interview, *supra* note 1.

20. O.C.G.A. § 33-7-6(d) (Supp. 1989).

21. Wilson Interview, *supra* note 19.