

CHAPTER 73  
HOUSE BILL No. 2858

AN ACT concerning service contracts; pertaining to the definition thereof; amending K.S.A. 2005 Supp. 40-201a and repealing the existing section.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 2005 Supp. 40-201a is hereby amended to read as follows: 40-201a. (a) The marketing, sale, offering for sale, issuance, making, proposing to make and administration of a service contract shall not be construed to be the business of insurance and shall be exempt from regulation as insurance pursuant to chapter 40 of the Kansas Statutes Annotated, and amendments thereto.

(b) For the purposes of this section, "service contract" means a contract or agreement for a separate or additional consideration, for any specified duration, to service, repair, replace or maintain all or any part of any structural component, appliance or utility system of any residential property, consumer good or other property; or to indemnify for service, repair, replacement or maintenance for consumer good or other property, due to a defect in materials, workmanship, normal wear and tear; or as a result of power surges or as a result of accidental damage from ~~the handling of property damaged by power surges~~ *the handling of any consumer good or other property*, with or without additional provision for indemnity payments, when service repair or replacement is not reasonably, commercially or economically feasible. Service contract also includes any non-consumer commercial service contract. Service contract does not include an automobile club service as defined in K.S.A. 40-2507, and amendments thereto.

(c) (1) No service contract which is exempt from regulation as insurance pursuant to chapter 40 of the Kansas Statutes Annotated, and amendments thereto, pursuant to this section shall contain any provision for consequential damages unless such consequential damages are caused by the failure of service, repair, replacement or maintenance rendered under the service contract.

(2) No service contract which is exempt from regulation as insurance pursuant to chapter 40 of the Kansas Statutes Annotated, and amendments thereto, pursuant to this section shall contain any provision, except as exempt by this section, which would otherwise be covered by a contract of property or liability insurance issued in this state.

Sec. 2. K.S.A. 2005 Supp. 40-201a is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

Approved March 31, 2006.

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