

§7102. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2011, c. 345, §4 (NEW); PL 2011, c. 345, §7 (AFF).]

1. Administrator. "Administrator" means the person who is responsible for the administration of a service contract program or who is responsible for any submission required by this chapter.

[PL 2011, c. 345, §4 (NEW); PL 2011, c. 345, §7 (AFF).]

2. Consumer. "Consumer" means an individual who buys other than for purposes of resale any tangible personal property that is distributed in commerce and that is normally used for personal, family or household purposes and not for business or research purposes.

[PL 2011, c. 345, §4 (NEW); PL 2011, c. 345, §7 (AFF).]

3. Maintenance agreement. "Maintenance agreement" means a contract of limited duration that provides for scheduled maintenance only and does not include repair or replacement.

[PL 2011, c. 345, §4 (NEW); PL 2011, c. 345, §7 (AFF).]

4. Motor vehicle manufacturer. "Motor vehicle manufacturer" means a person that:

A. Manufactures or produces motor vehicles and sells motor vehicles under its own name or label; [PL 2011, c. 345, §4 (NEW); PL 2011, c. 345, §7 (AFF).]

B. Is a wholly owned subsidiary of a person that manufactures or produces motor vehicles; [PL 2011, c. 345, §4 (NEW); PL 2011, c. 345, §7 (AFF).]

C. Is a corporation that owns 100% of a person that manufactures or produces motor vehicles; [PL 2011, c. 345, §4 (NEW); PL 2011, c. 345, §7 (AFF).]

D. Sells motor vehicles under the trade name or label of another person that manufactures or produces motor vehicles; or [PL 2011, c. 345, §4 (NEW); PL 2011, c. 345, §7 (AFF).]

E. Does not manufacture or produce motor vehicles but, pursuant to a written contract, licenses the use of its trade name or label to another person that manufactures or produces motor vehicles and that sells motor vehicles under the licensor's trade name or label. [PL 2011, c. 345, §4 (NEW); PL 2011, c. 345, §7 (AFF).]

[PL 2011, c. 345, §4 (NEW); PL 2011, c. 345, §7 (AFF).]

5. Nonoriginal manufacturer's parts. "Nonoriginal manufacturer's parts" means replacement parts not made for or by the original manufacturer of the property, commonly referred to as "aftermarket parts."

[PL 2011, c. 345, §4 (NEW); PL 2011, c. 345, §7 (AFF).]

6. Person. "Person" means an individual, partnership, corporation, incorporated or unincorporated association, joint stock company, reciprocal, syndicate or any similar entity or combination of entities acting in concert.

[PL 2011, c. 345, §4 (NEW); PL 2011, c. 345, §7 (AFF).]

7. Premium. "Premium" means the consideration paid to an insurer for a reimbursement insurance policy.

[PL 2011, c. 345, §4 (NEW); PL 2011, c. 345, §7 (AFF).]

8. Provider. "Provider" means a person who is contractually obligated to a service contract holder under the terms of a service contract.

[PL 2011, c. 345, §4 (NEW); PL 2011, c. 345, §7 (AFF).]

9. Provider fee. "Provider fee" means the consideration paid for a service contract.

[PL 2011, c. 345, §4 (NEW); PL 2011, c. 345, §7 (AFF).]

10. Reimbursement insurance policy. "Reimbursement insurance policy" means a policy of insurance, issued to a provider, that provides reimbursement to the provider under the terms of the insured service contracts issued or sold by the provider or, in the event of the provider's nonperformance, pays to service contract holders on behalf of the provider all covered contractual obligations incurred by the provider under the terms of the insured service contracts issued or sold by the provider.

[PL 2011, c. 345, §4 (NEW); PL 2011, c. 345, §7 (AFF).]

11. Service contract. "Service contract" means a contract or agreement for a separately stated consideration for a specific duration to perform the repair, replacement or maintenance of property or to indemnify for the repair, replacement or maintenance for an operational or structural failure of any motor vehicle or other property due to a defect in materials or workmanship or normal wear and tear, with or without additional provisions for incidental payment of indemnity under limited circumstances, including, but not limited to, towing, rental and emergency road service and road hazard protection. Coverage issued by an authorized insurance company pursuant to a personal automobile insurance policy for payment of towing, rental, emergency road service or automobile mechanical breakdown is not a service contract. Service contracts may provide for the repair, replacement or maintenance of property for damage resulting from power surges or interruption. "Service contract" includes a contract or agreement sold for a separately stated consideration for a specific duration that provides for any of the following:

A. The repair or replacement or indemnification for the repair or replacement of a motor vehicle for the operational or structural failure of one or more parts or systems of the motor vehicle brought about by the failure of an additive product to perform as represented; [PL 2011, c. 345, §4 (NEW); PL 2011, c. 345, §7 (AFF).]

B. The repair or replacement of tires or wheels on a motor vehicle damaged as a result of coming into contact with road hazards, including, but not limited to, potholes, rocks, wood debris, metal parts, glass, plastic, curbs or composite scraps; [PL 2011, c. 345, §4 (NEW); PL 2011, c. 345, §7 (AFF).]

C. The removal of dents, dings or creases on a motor vehicle that can be repaired using the process of paintless dent removal without affecting the existing paint finish and without replacing vehicle body panels, sanding, bonding or painting; [PL 2011, c. 345, §4 (NEW); PL 2011, c. 345, §7 (AFF).]

D. The repair of small motor vehicle windshield chips or cracks but not the replacement of the entire windshield; [PL 2021, c. 128, §1 (AMD).]

E. The repair of damage to the interior components of a motor vehicle caused by wear and tear but that expressly excludes the replacement of any part or component of a motor vehicle's interior; [PL 2021, c. 128, §2 (AMD).]

F. The replacement of a motor vehicle key or key fob in the event the key or key fob becomes inoperable or is lost or stolen; or [PL 2021, c. 128, §3 (NEW).]

G. In conjunction with a motor vehicle lease, the repair, replacement or maintenance of the motor vehicle, or indemnification for repair, replacement or maintenance, due to excess wear and use; due to damage for items such as tires, paint cracks or chips, interior stains, rips or scratches, exterior dents or scratches, windshield cracks or chips or missing interior or exterior parts; or due to excess mileage that results in a lease-end charge or any other charge for damage that is determined to be excess wear and use by a lessor under a motor vehicle lease, as long as any such payment does not exceed the purchase price of the motor vehicle. [PL 2021, c. 128, §4 (NEW).]

Notwithstanding any other provision of law, service contracts are not insurance in this State and may not be regulated as insurance except for a contract or agreement providing indemnification for a loss

caused by misplacement, theft, collision, fire or other peril typically covered in the comprehensive section of an automobile insurance policy or by a homeowner's policy or a marine or inland marine policy.

[PL 2021, c. 128, §§1-4 (AMD).]

12. Service contract holder. "Service contract holder" means a person who is the purchaser or holder of a service contract.

[PL 2011, c. 345, §4 (NEW); PL 2011, c. 345, §7 (AFF).]

13. Superintendent. "Superintendent" means the Superintendent of Insurance.

[PL 2011, c. 345, §4 (NEW); PL 2011, c. 345, §7 (AFF).]

14. Tangible net worth. "Tangible net worth" means equity less assets that have no physical existence and depend on expected future benefits for their ascribed value.

[PL 2011, c. 345, §4 (NEW); PL 2011, c. 345, §7 (AFF).]

15. Warranty. "Warranty" means a warranty made solely by the manufacturer, importer or seller of property or services without consideration that is not negotiated or separated from the sale of the product and is incidental to the sale of the product and that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor or other remedial measures, such as repair or replacement of the property or repetition of services.

[PL 2011, c. 345, §4 (NEW); PL 2011, c. 345, §7 (AFF).]

SECTION HISTORY

PL 2011, c. 345, §4 (NEW). PL 2011, c. 345, §7 (AFF). PL 2021, c. 128, §§1-4 (AMD).

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