



2011 SENATE BILL 492

1 **AN ACT** *to renumber* subchapter II (title) of chapter 616 [precedes 616.71]; and
2 *to create* 600.01 (1) (b) 12., 601.31 (1) (kr), subchapter III of chapter 616
3 [precedes 616.50] and 628.02 (1) (b) 9. of the statutes; **relating to:** regulating
4 certain service contracts and granting rule-making authority.

Analysis by the Legislative Reference Bureau

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 **SECTION 1.** 600.01 (1) (b) 12. of the statutes is created to read:
6 600.01 (1) (b) 12. Service contracts, as defined in s. 616.50 (11), or providers,
7 service contract sellers, or administrators of service contracts under subch. III of ch.
8 616.
9 **SECTION 2.** 601.31 (1) (kr) of the statutes is created to read:

SENATE BILL 492

1 used for personal, family, or household purposes and not for business or research
2 purposes.

3 (5) “Maintenance agreement” means a contract of a specified duration that
4 provides for scheduled maintenance only and does not include repair or replacement.

5 (6) “Motor vehicle manufacturer” means a person that does or satisfies any of
6 the following:

7 (a) Manufactures or produces motor vehicles and sells motor vehicles under its
8 own name or label.

9 (b) Is a subsidiary of the person that manufactures or produces motor vehicles.

10 (c) Is a corporation that owns 100 percent of the person that manufactures or
11 produces motor vehicles.

12 (d) Manufactures or produces motor vehicles and sells motor vehicles under the
13 trade name or label of another person that manufactures or produces motor vehicles.

14 (e) Does not manufacture or produce motor vehicles but, pursuant to a written
15 contract, licenses the use of its trade name or label to another person that
16 manufactures or produces motor vehicles and that sells motor vehicles under the
17 licensor’s trade name or label.

18 (7) “Nonoriginal manufacturer’s parts” means replacement parts for property
19 that are not made for or by the original manufacturer of the property.

20 (8) “Provider” means a person that is contractually obligated to a service
21 contract holder under the terms of a service contract.

22 (9) “Provider fee” means the consideration paid for a service contract.

23 (10) “Reimbursement insurance policy” means any of the following:

24 (a) A policy of insurance issued to a provider under the terms of the insured
25 service contracts issued or sold by the provider that, in the event of the provider’s or

SENATE BILL 492**SECTION 3**

1 administrator's nonperformance, will pay or perform on behalf of the provider or
2 administrator all covered contractual obligations or services under the terms of the
3 insured service contracts issued or sold by the provider.

4 (b) A policy of insurance issued to a provider that provides the coverage
5 specified in par. (a) and additional coverage that does not conflict with par. (a).

6 **(11)** "Service contract" means a contract or agreement for a separately stated
7 consideration for a specific duration to perform the repair, replacement, or
8 maintenance of property, or to provide indemnification for the repair, replacement,
9 or maintenance of property, for the operational or structural failure of property, due
10 to a defect in materials or workmanship, accidental damage from handling, or
11 normal wear and tear, with or without additional provisions for incidental payment
12 of indemnity under limited circumstances, including towing, rental, and emergency
13 road service and road hazard protection. "Service contract" includes a contract or
14 agreement that provides for any of the following:

15 (a) The repair, replacement, or maintenance of property or indemnification for
16 the repair, replacement, or maintenance of property for damage resulting from a
17 power surge or interruption.

18 (b) The repair or replacement or indemnification for the repair or replacement
19 of a motor vehicle for the operational or structural failure of one or more parts or
20 systems of the motor vehicle brought about by the failure of an additive product to
21 perform as represented.

22 (c) The repair or replacement of tires or wheels on a motor vehicle damaged as
23 a result of coming into contact with road hazards including potholes, rocks, wood
24 debris, metal parts, glass, plastic, curbs, or composite scraps.

SENATE BILL 492

1 (d) The removal of dents, dings, or creases on a motor vehicle that can be
2 repaired using the process of paintless dent removal without affecting the existing
3 paint finish and without replacing vehicle body panels, sanding, bonding, or
4 painting.

5 (e) The repair or replacement of motor vehicle windshield chips or cracks.

6 (f) The repair of damage to the interior components of a motor vehicle caused
7 by wear and tear, but does not include the replacement of any part or component of
8 a motor vehicle's interior.

9 **(12)** "Service contract holder" means a person who is the purchaser or holder
10 of a service contract.

11 **(13)** "Service contract seller" means a person, including a real estate agent, who
12 is engaged only in the selling or soliciting of a service contract, but who is not acting
13 as a provider or involved in the administration of service contracts.

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

20 **616.52 Applicability. (1)** This subchapter does not apply to any of the
21 following:

22 (a) Warranties, as defined in s. 100.203 (1) (g), 100.205 (1) (g), or 616.50 (14).

23 (b) Maintenance agreements.

SENATE BILL 492**SECTION 3**

1 (c) Service contracts offered by public utilities on their devices for the
2 transmission of public utility service to customers to the extent such service
3 contracts are regulated by the public service commission.

4 (cm) Service contracts offered by cooperative associations organized under ch.
5 185, for the purpose of producing or furnishing heat, light, power, or water to their
6 members, or by subsidiaries or affiliates of such cooperative associations.

7 (d) Service contracts sold or offered for sale to persons other than consumers.

8 (e) Service contracts for inside wire protection plans associated with the
9 offering of telecommunications service, as defined in s. 182.017 (1g) (cq), or video
10 service, as defined in 66.0420 (2) (y).

11 (f) Service contracts with respect to commercial property used in the provision
12 of telecommunications service, as defined in s. 182.017 (1g) (cq), or video service, as
13 defined in 66.0420 (2) (y).

14 **(2)** Motor vehicle manufacturer's service contracts on the motor vehicle
15 manufacturer's products are exempt from this subchapter, except for ss. 616.56 (1)
16 to (3) and (6) to (16), 616.58, and 616.62, and motor vehicle manufacturers offering
17 service contracts on the motor vehicle manufacturer's products are exempt from
18 licensure under s. 616.54 (4).

19 **(3)** A person who holds a valid certificate of authority under s. Ins 15.01, Wis.
20 Adm. Code may elect to do one of the following:

21 (a) Continue to operate in this state under the certificate of authority. If the
22 person makes such an election, s. Ins 15.01, Wis. Adm. Code shall continue to apply
23 to the person and this section shall not apply to the person.

SENATE BILL 492

1 (b) Apply for a license as a provider pursuant to s. 616.54 (4). If the person is
2 licensed, this subchapter shall apply to the person and s. Ins 15.01, Wis. Adm. Code
3 shall not apply to the person for any service contracts issued subsequent to licensure.

4 **616.54 Requirements for doing business. (1)** APPOINTMENT OF
5 ADMINISTRATOR. A provider may, but is not required to, appoint an administrator to
6 be responsible for any or all of the administration of service contracts and compliance
7 with this subchapter. Except as provided in s. 616.58 (2) (b), a provider shall be liable
8 for the acts of an administrator appointed by the provider to assist with the
9 administration of the provider's service contracts to the extent such acts relate to the
10 provider's service contracts offered in or from this state. No person may act as an
11 administrator of service contracts sold in this state unless the person registers with
12 the commissioner by providing the following information:

13 (a) The name, business address, and other information required by the
14 commissioner for an employee or officer of the administrator that is designated by
15 the applicant as the person responsible for the administration of service contracts in
16 this state.

17 (b) The location of the administrator's home office.

18 (c) The names of the service contract providers for whom the administrator
19 performs administration.

20 **(2) RECEIPT AND COPY OF CONTRACT.** A service contract may not be issued, sold,
21 or offered for sale in this state unless the provider of the service contract has done
22 all of the following:

23 (a) Provided a receipt for, or other written evidence of, the purchase of the
24 service contract to the service contract holder.

SENATE BILL 492**SECTION 3**

1 (b) Provided a copy of the service contract to the service contract holder within
2 a reasonable period of time from the date of purchase.

3 **(3) SAMPLE CONTRACT.** A provider shall provide a consumer with a complete
4 sample copy of the service contract terms and conditions prior to the time of sale upon
5 a request for the same by the consumer. A provider may comply with this subsection
6 by providing the consumer with a complete sample copy of the terms and conditions
7 or by directing the consumer to an Internet Web site containing a complete sample
8 of the terms and conditions of the service contract.

9 **(4) LICENSURE.** (a) No person may act as a provider in this state unless the
10 commissioner issues a license to the person under par. (c).

11 (b) A person seeking to act as a provider in this state shall submit an application
12 for licensure with the commissioner consisting of all of the following:

- 13 1. The applicant's name.
- 14 2. The applicant's full business address.
- 15 3. The applicant's telephone number.
- 16 4. The name and full business address of a person in this state designated for
17 service of process.
- 18 5. A copy of the service contracts proposed to be sold in this state that comply
19 with s. 616.56.
- 20 6. Documentation of compliance with sub. (5).
- 21 7. The names of any administrator appointed by the applicant to assist with
22 the administration of the provider's service contract business in this state.
- 23 8. An initial licensure fee in the amount specified in s. 601.31 (1) (kr).

24 (c) Upon receipt of an application that complies with par. (b) as determined by
25 the commissioner, the commissioner shall issue a license to the applicant.

SENATE BILL 492

1 (d) The information submitted with an applicant's application for licensure
2 need only be updated by written notification to the commissioner if material changes
3 occur in the license application on file with the commissioner.

4 (e) By March 31 of each year after issuance of a license under par. (c), a provider
5 shall pay the commissioner an annual fee in the amount specified in s. 601.31 (1) (kr).

6 **(5) ASSURANCE OF PERFORMANCE; IN GENERAL.** In order to assure the faithful
7 performance of a provider's obligations to its service contract holders, each provider
8 shall be responsible for complying with the requirements specified in sub. (6) or (7).

9 **(6) ASSURANCE OF PERFORMANCE; INSURANCE.** (a) A provider may satisfy sub. (5)
10 by insuring all service contracts under a reimbursement insurance policy that has
11 been filed with and approved by the commissioner under s. 631.20, that is issued by
12 an insurer authorized to do business in this state, and that satisfies, at a minimum,
13 all of the following:

14 1. The policy states that, if the provider covered under the policy does not
15 provide, or reimburse or pay for, a service that is covered under a service contract
16 insured under the policy within 60 days after a service contract holder provides proof
17 of loss, or in the event of the provider's insolvency or other financial impairment, the
18 service contract holder may file a claim with the insurer issuing the reimbursement
19 insurance policy for reimbursement, payment, or provision of the service.

20 2. The policy states that the insurer issuing the policy shall assume full
21 responsibility for administering and paying claims and other obligations under
22 service contracts insured under the policy if the provider or designated
23 administrator fails to do so.

24 3. The policy states that the insurer issuing the policy may not terminate or
25 refuse to renew the policy unless the insurer has provided a written notice of

SENATE BILL 492**SECTION 3**

1 termination or nonrenewal to the commissioner at least 60 days before the date of
2 the termination or, in the case of nonrenewal, the expiration of the policy.

3 (b) If a reimbursement insurance policy by which a provider is satisfying this
4 subsection is terminated, cancelled, or not renewed for any reason, or if the insurer
5 issuing the policy is not in compliance with applicable financial standards, all of the
6 following apply:

7 1. The provider shall immediately notify the commissioner of the termination,
8 cancellation, or nonrenewal of the policy, if applicable.

9 2. The provider shall cease selling service contracts in this state until the
10 provider either files with the commissioner a new reimbursement insurance policy
11 that covers its obligations under service contracts sold in the state and that satisfies
12 the requirements under par. (a) or provides a deposit or irrevocable letter of credit
13 in accordance with sub. (7).

14 3. If the commissioner so requests, the provider shall file with the
15 commissioner copies of its audited financial statements or financial statements that
16 are certified as accurate by a corporate officer of the provider if the provider does not
17 have audited financial statements.

18 (c) An insurer issuing a reimbursement insurance policy to a provider is
19 considered to have received the premium for that insurance policy upon payment by
20 a consumer of the fee for a service contract issued by the insured provider.

21 (d) The termination or nonrenewal of a provider's reimbursement insurance
22 policy does not reduce the insurer's responsibility with respect to service contracts
23 issued by the provider before the date of the termination or, in the case of
24 nonrenewal, the expiration of the policy.

SENATE BILL 492

1 (e) Nothing in this subsection prevents, or limits the right of, an insurer that
2 issued a reimbursement insurance policy to seek indemnification from or
3 subrogation against a provider if the insurer pays or is obligated to pay the service
4 contract holder any amount that the provider was obligated to pay under the service
5 contract.

6 **(7) ASSURANCE OF PERFORMANCE; DEPOSIT OR IRREVOCABLE LETTER OF CREDIT.** (a)
7 A provider may satisfy sub. (5) by providing security to compensate any service
8 contract holder who sustains a loss due to the failure of the provider to perform its
9 obligations under a service contract as a result of insolvency or other financial
10 impairment. The commissioner shall approve the amount and form of the security.

11 (b) The security under this subsection shall be in one or a combination of the
12 following forms:

- 13 1. A deposit of securities under s. 601.13 for the benefit of Wisconsin consumers.
- 14 2. An irrevocable letter of credit that is from a bank properly chartered by the
15 federal government or any state, that is acceptable to the commissioner, and that is
16 issued for a term of at least 5 years with provision for renewal 2 years before
17 termination. The letter of credit shall be payable to the commissioner or the
18 commissioner's designee for the benefit of Wisconsin consumers upon a finding by
19 the commissioner that a provider is insolvent or financially impaired and unable to
20 meet its obligations under service contracts issued in Wisconsin. The provider shall
21 notify the commissioner in writing of the nonrenewal of a letter of credit within 30
22 days after receiving a notice of nonrenewal. No provider whose letter of credit has
23 been nonrenewed may offer or sell or renew any service contract on or after the date
24 of nonrenewal until the provider obtains security satisfying the requirements of this
25 subsection or satisfies the requirements of sub. (6).

SENATE BILL 492**SECTION 3**

1 (c) The security under this subsection shall be not less than \$50,000 plus one
2 of the following:

3 1. If the provider has not appointed an administrator under s. 616.54 (1), 15
4 percent of the provider fees collected from service contract holders for all unexpired
5 service contracts in force in Wisconsin on January 1 of each year.

6 2. If the provider has appointed an administrator under s. 616.54 (1), 22.5
7 percent of the provider fees collected from service contract holders for all unexpired
8 service contracts in Wisconsin on January 1 of each year.

9 (d) The security under this subsection shall continue until released by the
10 commissioner pursuant to a finding that it is not necessary for the reasonable
11 protection of Wisconsin consumers.

12 **(8) FINANCIAL STATEMENTS.** A provider using a deposit or irrevocable letter of
13 credit as specified in sub. (7) to satisfy sub. (5) shall, by the end of the 5th month
14 following the end of each fiscal year of the provider, submit financial statements for
15 the fiscal year to the commissioner that are prepared on an accrual basis in
16 accordance with generally accepted accounting principles and that are audited by an
17 independent certified public accountant.

18 **(9) COMMISSIONER LIMITATION.** Except for the requirements specified in sub. (5),
19 no other financial security requirements shall be required by the commissioner for
20 providers.

21 **(10) PAYMENT OF CLAIMS.** A provider shall be subject to and shall pay claims
22 under a service contract in accordance with s. 628.46 (1) and (2).

23 **(11) SERVICE CONTRACT SELLERS.** A service contract seller is not subject to
24 licensure or registration under this subchapter.

SENATE BILL 492

1 **616.56 Form filing and required disclosures. (1)** A service contract may
2 not be marketed, sold, offered for sale, issued, made, proposed to be made, or
3 administered in this state unless the service contract has been filed with and
4 approved by the commissioner in a manner and format prescribed by the
5 commissioner. Service contracts shall be filed in the final printed format or typed
6 facsimile exactly as they will be offered for issuance or delivery in this state.

7 **(2)** Service contracts shall be written, printed, or typed in commonly
8 understood language, shall be legible, appropriately divided, and captioned by their
9 various sections, and their various sections shall be presented in a meaningful
10 sequence. Contract filings shall be accompanied by a certificate of compliance and
11 readability signed by an officer of the provider or administrator submitting the
12 contract for review and approval.

13 **(3)** Service contracts shall contain the following statement printed in bold and
14 capitalized type: “THIS CONTRACT IS SUBJECT TO LIMITED REGULATION BY
15 THE OFFICE OF THE COMMISSIONER OF INSURANCE.”

16 **(4)** Service contracts insured under a reimbursement insurance policy
17 pursuant to s. 616.54 (6) shall contain a statement in substantially the following
18 form: “Obligations of the provider under this service contract are insured under a
19 service contract reimbursement insurance policy.” The service contract shall state
20 the name and address of the insurer; state that if a provider does not provide, or
21 reimburse or pay for, a service that is covered under a service contract within 60 days
22 after a contract holder provides proof of loss, or if the provider becomes insolvent or
23 otherwise financially impaired, the contract holder may file a claim directly with the
24 service contract reimbursement insurer for reimbursement, payment, or provision
25 of the service; and state the instructions on how to file a claim.

SENATE BILL 492**SECTION 3**

1 **(5)** Service contracts not insured under a reimbursement insurance policy
2 pursuant to s. 616.54 (6) shall contain a statement in substantially the following
3 form: “Obligations of the provider under this service contract are backed by the full
4 faith and credit of the provider.”

5 **(6)** Service contracts shall state the name and address of the provider, and shall
6 identify any administrator that is different from the provider, the service contract
7 seller, and the service contract holder, if the name of the service contract holder has
8 been furnished by the service contract holder. The identities of such parties are not
9 required to be preprinted on the service contract and may be added to the service
10 contract at the time of sale.

11 **(7)** Service contracts shall state the total purchase price and the terms under
12 which the service contract is sold. The purchase price is not required to be preprinted
13 on the service contract and may be negotiated at the time of sale with the service
14 contract holder.

15 **(8)** Service contracts shall identify any applicable deductible amount.

16 **(9)** Service contracts shall specify the merchandise and services to be provided
17 and any limitations, exceptions, or exclusions.

18 **(10)** Service contracts covering motor vehicles shall state whether the use of
19 nonoriginal manufacturers’ parts is allowed.

20 **(11)** Service contracts shall state any applicable restrictions governing the
21 transferability of the service contract.

22 **(12)** Service contracts shall state the terms, restrictions, or conditions
23 governing cancellation of the service contract by the provider prior to the termination
24 or expiration date of the service contract. A service contract may be cancelled by a
25 provider only for nonpayment of the provider fee, material misrepresentation by the

SENATE BILL 492

1 contract holder to the provider or administrator, or substantial breach of duties by
2 the service contract holder relating to the covered product or its use. A provider shall
3 comply with all of following when cancelling a service contract:

4 (a) The provider shall mail a written notice to the service contract holder at the
5 last-known address of the service contract holder contained in the records of the
6 provider at least 5 days prior to cancellation by the provider.

7 (b) The notice under par. (a) shall state the effective date of the cancellation and
8 the reason for the cancellation.

9 (c) If a service contract is cancelled by the provider for a reason other than
10 nonpayment of the provider fee, the provider shall refund to the service contract
11 holder 100 percent of the unearned pro rata provider fee, less any claims paid.

12 (d) A provider may charge a reasonable administrative fee for cancellation,
13 which may not exceed 10 percent of the provider fee.

14 **(13)** Service contracts shall set forth all of the obligations and duties of the
15 service contract holder, including the duty to protect against any further damage and
16 any requirement to follow the owner's manual.

17 **(14)** Service contracts shall state whether or not the service contract provides
18 for or excludes consequential damages or preexisting conditions. Service contracts
19 may, but are not required to, cover damage resulting from rust, corrosion, or damage
20 caused by a noncovered part or system.

21 **(15)** Service contracts shall require the provider to permit the service contract
22 holder to return the service contract within 20 days of the date the service contract
23 was mailed to the service contract holder, or within 10 days of delivery if the service
24 contract is delivered to the service contract holder at the time of sale, or within a
25 longer period permitted under the service contract. Upon return of the service

SENATE BILL 492**SECTION 3**

1 contract to the provider within the applicable period, if no claim has been made under
2 the service contract prior to its return to the provider, the service contract is void and
3 the provider shall refund to the service contract holder, or credit the account of the
4 service contract holder, the full purchase price of the service contract. Unless
5 otherwise stated in a service contract, the right to void a service contract under this
6 paragraph is not transferable and shall apply only to the original service contract
7 purchaser. If a provider does not pay or credit a refund within 45 days after the
8 return of a service contract to the provider, the provider shall pay a 10 percent per
9 month penalty of the refund amount outstanding which the provider shall add to
10 amount of the refund.

11 **(16)** Service contracts shall provide that, subsequent to the period specified in
12 sub. (15) for voiding a service contract or if a claim has been made under a service
13 contract within such period, a service contract holder may cancel the service contract
14 and the provider shall refund to the service contract holder 100 percent of the
15 unearned pro rata provider fee, less any claims paid. A provider may charge a
16 reasonable administrative fee for the cancellation, which may not exceed 10 percent
17 of the provider fee.

18 **(17)** A service contract shall be subject to s. 631.85.

19 **(18)** In the event of a total loss of property covered by a service contract that
20 is not covered by a replacement of the property pursuant to the terms of the contract,
21 a service contract holder shall be entitled to cancel the service contract and receive
22 a pro rata refund of any unearned provider fee, less any claims paid.

23 **616.58 Prohibited acts. (1)** (a) A provider shall not use in its name used in
24 this state the words “insurance,” “casualty,” “surety,” or “mutual” or any other words
25 descriptive of the insurance, casualty, or surety business; or a name deceptively

SENATE BILL 492

1 similar to the name or description of any insurance or surety corporation, or to the
2 name of any other provider. The word “guaranty” or a similar word may be used by
3 a provider.

4 (b) Paragraph (a) does not apply to a provider that was using any language
5 prohibited under par. (a) in its name used in this state prior to the effective date of
6 this paragraph [LRB inserts date].

7 **(2)** (a) No provider, administrator, service contract seller, or provider’s
8 representative may make or cause to be made any communication relating to a
9 service contract, the service contract business, insurance business, any insurer, any
10 administrator, or any provider that contains false or misleading information,
11 including information that is misleading due to incompleteness. Filing a report and,
12 with intent to deceive a person examining it, making a false entry in a record or
13 intentionally refraining from making a proper entry, are “communications” within
14 the meaning of this paragraph. No provider or administrator may use any business
15 name, slogan, emblem, or related device that is misleading or likely to cause the
16 provider or administrator to be mistaken for another provider or administrator
17 already in business.

18 (b) If an administrator or representative of a provider distributes cards or
19 documents, exhibits a sign, or publishes an advertisement that violates par. (a),
20 having reference to a particular provider that the administrator or representative
21 represents, such violation creates a rebuttable presumption that the violation was
22 also committed by the provider.

23 **(3)** A person, including a bank, savings and loan association, lending
24 institution, manufacturer, or seller of any product, shall not require the purchase of
25 a service contract as a condition of a loan or a condition for the sale of any property,

SENATE BILL 492**SECTION 3**

1 except that a person buying or selling a home may condition the purchase or sale of
2 the home on the seller's or buyer's procurement of a service contract that covers the
3 home.

4 (4) A motor vehicle service contract provider or its representative shall not,
5 directly or indirectly, represent in any manner, whether by written solicitation or
6 telemarketing, a false, deceptive, or misleading statement with respect to any of the
7 following:

8 (a) The provider's affiliation with a motor vehicle manufacturer.

9 (b) The provider's possession of information regarding a motor vehicle owner's
10 current motor vehicle manufacturer's original equipment warranty.

11 (c) The expiration of a motor vehicle owner's current motor vehicle
12 manufacturer's original equipment warranty.

13 (d) A requirement that a motor vehicle owner purchase a new motor vehicle
14 service contract with the provider in order to maintain coverage under the motor
15 vehicle owner's current motor vehicle service contract or manufacturer's original
16 equipment warranty.

17 **616.60 Record-keeping requirements.** (1) (a) A provider shall keep
18 accurate accounts, books, and records concerning transactions regulated under this
19 subchapter.

20 (b) A provider's accounts, books, and records shall include all of the following:

21 1. Copies of each type of service contract sold.

22 2. The name and address of each service contract holder that has furnished
23 such information to the provider.

24 3. A list of the locations where service contracts are marketed, sold, or offered
25 for sale in this state.

SENATE BILL 492

1 4. Written claims files that shall contain at least the dates, descriptions, and
2 amounts paid or denied for claims related to the service contracts.

3 5. The effective date, expiration date, name of the seller, and provider fee paid
4 for each service contract sold in this state.

5 (c) Except as provided in sub. (2), a provider shall retain all records required
6 to be maintained under this subsection for a service contract for at least one year
7 after the period of coverage specified in the contract has expired.

8 (d) The records required under this subsection may be, but are not required to
9 be, maintained on a computer disk or other record-keeping technology. If the records
10 are maintained in other than hard copy, the records shall be capable of duplication
11 to electronic copy or legible hard copy at the request of the commissioner.

12 **(2)** A provider discontinuing business in this state shall maintain its records
13 until it furnishes the commissioner satisfactory proof that it has discharged all
14 obligations to service contract holders in this state.

15 **616.62 Enforcement. (1)** The commissioner may conduct examinations of
16 providers, administrators, service contract sellers, or other persons under ss. 601.43
17 to 601.45 to enforce the provisions of this subchapter and protect service contract
18 holders in this state. Upon request of the commissioner, a provider shall make all
19 accounts, books, and records concerning service contracts sold by or on behalf of the
20 provider available to the commissioner which are necessary to enable the
21 commissioner to reasonably determine compliance with this subchapter.

22 **(2)** The commissioner may take any action under ss. 601.41 and 601.61 to
23 601.73 that is necessary or appropriate to enforce the provisions of this subchapter
24 and the commissioner's rules and orders and to protect service contract holders in

SENATE BILL 492**SECTION 3**

1 this state. The commissioner may subject a provider to any reporting and replying
2 requirement under s. 601.42.

3 **SECTION 4.** Subchapter II (title) of chapter 616 [precedes 616.71] of the statutes
4 is renumbered subchapter IV (title) of chapter 616 [precedes 616.71] of the statutes.

5 **SECTION 5.** 628.02 (1) (b) 9. of the statutes is created to read:

6 628.02 (1) (b) 9. A person whose activities are limited to marketing, selling, or
7 offering for sale a warranty contract, as defined in s. Ins 15.01 (4) (d), Wis. Adm. Code,
8 maintenance agreement, as defined in s. 616.50 (5), or service contract, as defined
9 in s. 616.50 (11).

10 **SECTION 6. Initial applicability.**

11 (1) SERVICE CONTRACTS. The treatment of subchapter III of chapter 616 of the
12 statutes first applies to service contracts that are issued, sold, or offered for sale, on
13 the effective date of this subsection.

14 (2) INSURANCE MARKETING INTERMEDIARIES. The treatment of section 628.02 (1)
15 (b) 9. of the statutes first applies to activities that take place on the effective date of
16 this subsection.

17 (END)