

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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**HOUSE BILL 645
Committee Substitute Favorable 5/12/05**

Short Title: Amend Warranty/Service Agmt Laws/Study.-AB

(Public)

Sponsors:

Referred to:

March 16, 2005

A BILL TO BE ENTITLED

1 AN ACT TO CLARIFY THAT INSURANCE MAINTAINED BY WARRANTY
2 COMPANIES AND MOTOR VEHICLE AND HOME APPLIANCE SERVICE
3 AGREEMENT COMPANIES MUST BE PROVIDED BY EITHER A LICENSED
4 INSURER OR AN ELIGIBLE SURPLUS LINES INSURER, TO AUTHORIZE A
5 STUDY, AND TO APPROPRIATE FUNDS.
6

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 58-1-36(a) reads as rewritten:

9 "(a) Each company or person subject to this section shall maintain contractual
10 liability insurance or service agreement reimbursement insurance with ~~an authorized~~
11 ~~insurer~~ either an insurer, as defined in G.S. 58-3-165(a)(6), or an eligible surplus lines
12 insurer, as defined in G.S. 58-21-10(3), for one hundred percent (100%) of claims
13 exposure, including reported and incurred but not reported claims and claims expenses,
14 on business written in this State unless the company or person:

- 15 (1) Maintains an audited net worth of one hundred million dollars
16 (\$100,000,000);
17 (2) Has offered service agreement contracts or warranties, as applicable to
18 the respective company, its parent company, or person, for at least the
19 preceding 10 years; and
20 (3) Either is required to file and has filed an SEC Form 10K or Form 20-F
21 with the Securities and Exchange Commission (SEC) within the last
22 calendar year or, if the company does not file with the SEC, can
23 produce, upon request, a copy of the company's audited financial
24 statements, which show a net worth of the company or person of at
25 least one hundred million dollars (\$100,000,000). A company or
26 person may utilize its parent company's Form 10-K, Form 20-F, or
27 audited financial statements to satisfy this requirement if the parent
28 company agrees to guarantee the obligations of the company or person
29 relating to service agreement contracts or warranties, as applicable to

1 the respective company or person, sold by the company or person in
2 this State."

3 **SECTION 2.** The Department of Insurance shall study the issue of the
4 appropriate and effective regulation of warranties and service agreements. The study
5 shall include consideration of:

6 (1) The need for the regulation of motor vehicle protection product
7 warranty agreements and of persons who are contractually obligated to
8 warranty holders under those agreements.

9 (2) The most effective means of providing meaningful regulatory
10 oversight of warranty and service agreements and the entities that issue
11 the agreements.

12 (3) Any other issue related to warranty and service agreement companies
13 deemed appropriate by the Department.

14 The Department shall report its findings, including any legislative
15 recommendations, to the 2006 Regular Session of the 2005 General Assembly.

16 **SECTION 3.** There is appropriated from the General Fund to the
17 Department of Insurance the sum of fifty thousand dollars (\$50,000) for the 2005-2006
18 fiscal year to carry out the provisions of this act.

19 **SECTION 4.** Section 1 of this act becomes effective January 1, 2006.
20 Sections 2 and 3 of this act become effective July 1, 2005. The remainder of this act is
21 effective when it becomes law.