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**Financial Institutions & Insurance  
Committee**

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**HB 3032**

**Brief Description:** Defining normal wear and tear for a motor vehicle for the purpose of a service contract.

**Sponsors:** Representatives Simpson and Bailey.

**Brief Summary of Bill**

- Expands the definition of "service contract."

**Hearing Date:** 1/26/10

**Staff:** Jon Hedegard (786-7127).

**Background:**

Certain transactions that fall within the definition of insurance have been addressed by exemptions from the Insurance Code or the creation of a specific regulatory structure. Entities regulated under these chapters may not be required to comply with the same capitalization and reserve requirements, reporting and solvency oversight, and claims handling practices as are required of an insurer selling a traditional insurance product.

In 1990, the Legislature created a chapter in the Code to regulate motor vehicle service contracts. In 1999, a chapter in the Code was created for the regulation of service contracts. In 2006, the Legislature overhauled the service contract chapter, included motor vehicle service contracts and "protection products" and repealed the motor vehicle service contracts chapter.

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A "service contract" is a contract to perform the repair, replacement, or maintenance of property or the payment for the repair, replacement, or maintenance for operational or structural failure due to a defect in materials or workmanship, or normal wear and tear.

#### Registration.

Service contract providers must register with the Insurance Commissioner (Commissioner). Persons selling and marketing service contracts are not required to register with the Commissioner unless they are service contract providers. The Commissioner may suspend or revoke the registration of a service contract provider for failure to comply with the specific requirements.

#### Regulatory Oversight.

A service contract provider must meet requirements regarding:

- financial responsibility;
- record-keeping;
- form filings;
- disclosures; and
- refunds to consumers within 30 days of purchase if no claim is made.

#### Penalties for violations.

The Commissioner may take enforcement actions for violations of the service provider statutes. A violation of the service contractor chapter is also a violation of the Consumer Protection Act.

#### **Summary of Bill:**

The definition of "service contract" is modified to include a contract or agreement:

- for the removal of dents, dings, or creases 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;
- for the repair or replacement of tires or wheels damaged as a result of coming into contact with ordinary road hazards including but not limited to potholes, rocks, wood debris, metal parts, glass, plastic, or composite scraps;
- to repair small windshield chips or cracks but which expressly excludes the replacement of the entire windshield; and
- to repair damage to the interior components of a motor vehicle caused by wear and tear but which expressly excludes the replacement of any part or component of a motor vehicle's interior.

Tire or wheel manufacturers and motor vehicle manufacturers are exempt from the requirements of the chapter.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.