

HOUSE BILL No. 5361

November 12, 1997, Introduced by Reps. Frank, Mans, Kelly, Thomas, Hale, Bogardus, Brewer, DeHart, Cherry, Schermesser, LaForge, Goschka, Griffin, Wetters, McBryde, Gire, Anthony, Wojno, Schauer, Callahan, Prusi, Tesanovich, Hood and Godchaux and referred to the Committee on Consumer Protection.

A bill to regulate extended warranty contracts; to provide for consumer rights; to require certain notices; to provide for remedies; and to prescribe penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Consumer" means an individual who purchases, uses,
3 maintains, or disposes of products and services.

4 (b) "Extended warranty contract", "contract", or "warranty"
5 means a contract or agreement in addition to a manufacturer's
6 warranty for maintenance of a product or the repair service of a
7 product due to a defect in materials or workmanship.

8 (c) "Extended warranty provider" or "provider" means a
9 person who issues, makes, provides, or offers to provide an
10 extended warranty contract to a consumer. Provider includes a
11 retailer, manufacturer, or third party company.

1 (d) "Retailer" means a person who sells goods or services to
2 a consumer.

3 Sec. 2. (1) This act applies to an extended warranty con-
4 tract entered into on or after the effective date of this act.

5 (2) An extended warranty contract shall be signed by the
6 provider, and include all of the following information:

7 (a) The product covered by the contract.

8 (b) A statement of the service and maintenance provided
9 under the extended warranty contract.

10 (c) A step-by-step explanation of the procedure which the
11 consumer should follow to obtain service under the contract.

12 (d) The specific time period covered by the warranty.

13 (e) That the retailer will provide a brochure identifying
14 the rights and obligations of the consumer under the contract.

15 (f) That the extended warranty is in addition to any
16 manufacturer's warranty.

17 (g) The person or persons responsible for servicing the pro-
18 duct and the responsible party's legal name and address.

19 (h) The retailer's experience with similar extended warranty
20 contracts on the product purchased by the consumer and based on
21 that experience, the likelihood that the consumer will use the
22 extended warranty.

23 (i) That the consumer has up to 10 days to accept or decline
24 the extended warranty contract and if accepted up to 60 days to
25 rescind the contract.

26 (j) Whether the extended warranty may be transferred, and if
27 transferable, any conditions or limits on a transfer.

1 Sec. 3. At no charge or penalty to the consumer and except
2 if a claim has been filed under the extended warranty contract,
3 the consumer shall have a 10-day grace period from the date the
4 contract was purchased to decline the contract and receive a full
5 refund of the contract price.

6 Sec. 4. (1) Except if the extended warranty contract pro-
7 vides for a longer period, within 60 days after receipt of the
8 contract by the consumer, the consumer may rescind the extended
9 warranty contract.

10 (2) Except as otherwise provided by this subsection, if the
11 consumer rescinds the contract under subsection (1), the consumer
12 shall receive a full refund of the contract price. If a claim
13 under the contract occurred within the 60-day time period, the
14 consumer shall receive a prorated refund, based on either elapsed
15 time or an objective measure of use, at the provider's option.

16 (3) The extended warranty provider may assess a cancellation
17 fee under this section not to exceed 10% of the cash price of the
18 contract or \$25.00, whichever is less.

19 (4) Within 10 business days after a contract cancellation by
20 a consumer under this section, the extended warranty provider
21 shall tender to the consumer a refund as required by this
22 section.

23 Sec. 5. (1) An extended warranty provider shall not enter
24 into an extended warranty contract in this state unless the
25 extended warranty provider has filed with the secretary of state
26 a registration form approved by the secretary of state and a bond
27 in an amount prescribed by this section. The bond required by

1 this act shall be issued only by a surety authorized to do
2 business in this state.

3 (2) The principal sum of the bond shall be as follows:

4 (a) If the extended warranty provider has not previously
5 sold extended warranty contracts in this state, or if the
6 provider's gross receipts from such business during its last
7 fiscal year did not exceed \$100,000.00, a principal sum of
8 \$25,000.00.

9 (b) For each additional \$100,000.00, or fraction thereof, of
10 gross receipts from such business, an additional \$25,000.00.

11 (3) The amount of the bond required under this section shall
12 not exceed \$500,000.00.

13 (4) The bond shall be issued in favor of the people of this
14 state for the benefit of a consumer injured in the event that the
15 extended warranty provider fails to provide a refund to the con-
16 sumer after cancellation of the contract as provided for under
17 section 3 or 4.

18 Sec. 6. A person who violates this act is responsible for a
19 state civil infraction and may be ordered to pay a civil fine of
20 not more than \$5,000.00 for each violation.