



## Missouri Revises Motor Vehicle Service Contract Law

Regulates Independent Marketers Selling in or from the State

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Missouri recently enacted Senate Bill No. 132 ("SB 132"), which includes several revisions to Missouri's motor vehicle service contract law<sup>1</sup> (the "Mo. MVSC Law"). SB 132 imposes a new "producer" licensing requirement on independent marketers of motor vehicle service contracts and makes other changes intended to limit deceptive sales practices. The applicable provisions of SB 132 becomes effective January 1, 2012.

The Mo. MVSC Law currently regulates the service contract "provider" (*i.e.*, the person contractually obligated to provide the benefits under the contract) but not persons apart from the provider who may be selling the service contracts. This is consistent with similar laws in most other states, as only a few such laws either require sellers to be registered or otherwise restrict who may sell a service contract.

Over the past few years, consumer complaints regarding certain sales practices (*e.g.*, false claims regarding the expiration of the manufacturer's warranty) of telemarketers of motor vehicle service contracts has triggered actions by the Federal Trade Commission and attorneys general in several states. The Missouri Attorney General's office has brought numerous suits against telemarketers of service contracts operating from locations in Missouri. In January 2011, the Missouri Auto Service Contract Task Force, which was appointed by the Missouri Attorney General, made recommendations for revisions to the Mo. MVSC Law. SB 132 closely follows the Task Force's recommendations.

Once SB 132 becomes effective, subject to certain exceptions, it will be unlawful for any person to offer or sell motor vehicle service contracts "*in or from*" Missouri without being licensed as a "producer." Motor vehicle dealers, manufacturers, certain lenders, and registered providers, along with their respective employees, will not need to be licensed as producers. An administrator whose activities on behalf of a provider include selling service contracts will need to be licensed as a producer, but the administrator's employees will not need to be licensed.<sup>2</sup>

The producer licensing requirements appear similar to those imposed on limited lines insurance producers. SB 132 expressly states that no examination shall be required for individual producers.



Licenses will be issued for two-year terms for fees not to exceed \$100 for business entities and \$25 for individuals. However, SB 132 includes a long list of misconduct-related reasons for which a producer's license may be refused or revoked.<sup>3</sup>

SB 132 will require providers issuing motor vehicle service contracts in Missouri to maintain and update a register of business entity producers that the provider has authorized to sell service contracts on the provider's behalf. Also, a provider will be obligated to report any information in its possession that would be cause for a producer to be disciplined.<sup>4</sup>

SB 132 makes other changes to the Mo. MVSC Law including: (i) prohibiting certain deceptive sales practices and adding a felony penalty for engaging in such practices with an intent to defraud; (ii) requiring delivery of a fully executed service contract to the consumer within a specified period and requiring that an unsigned copy of the service contract be provided, upon the consumer's request, prior to processing the consumer's initial payment; and (iii) adding a right for a consumer to cancel a service contract after the "free look" period and receive a pro-rata refund less certain permitted deductions.<sup>5</sup>

Will Missouri's enactment of SB 132 lead other states to start regulating independent sellers of service contracts?

#### Endnotes

<sup>1</sup> Missouri Insurance Code §§ 385.200 to 385.220.

<sup>2</sup> See § 385.206 as amended by SB 132.

<sup>3</sup> See § 385.207 added by SB 132.

<sup>4</sup> See § 385.211 added by SB 132. Reporting would be to the Director of the Mo. Dept. of Insurance, Financial Institutions and Professional Regulation, who administers the Mo. MVSC Law.

<sup>5</sup> See § 385.205 added by, and §§ 385.206 and 385.208 amended by, SB 132.

For more information on the matters discussed in this *Locke Lord QuickStudy*, please contact the author:

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