

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 789
HOUSE BILL 242

AN ACT TO AMEND THE DEFINITION OF PRIVATE PASSENGER MOTOR
VEHICLE FOR INSURANCE RATING PURPOSES AND TO PROVIDE FOR
THE REGULATION OF EXTENDED WARRANTIES BY THIRD PARTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-131.35A(1) reads as rewritten:

"§ 58-131.35A. Other definitions.

As used in this Article and in Articles 12B and 25A of this Chapter:

(1) 'Private passenger motor vehicle' means:

- a. A motor vehicle of the private passenger or station wagon type that is owned or hired under a long-term contract by the policy named insured and that is neither used as a public or livery conveyance for passengers nor rented to others without a driver; or
- b. ~~A motor vehicle with a pick-up body, a delivery sedan or a panel truck that is owned by an individual or by husband and wife or individuals who are residents of the same household and that is not customarily used in the occupation, profession, or business of the insured other than farming or ranching. Such vehicles owned by a family farm copartnership or corporation shall be considered owned by an individual for purposes of this Article; or~~ A motor vehicle that is a pickup truck or van that is owned by an individual or by husband and wife or individuals who are residents of the same household if it:
 1. Has a gross vehicle weight as specified by the manufacturer of less than 10,000 pounds; and
 2. Is not used for the delivery or transportation of goods or materials unless such use is (i) incidental to the insured's business of installing, maintaining, or repairing furnishings or equipment, or (ii) for farming or ranching. Such vehicles owned by a family farm copartnership or a family farm corporation shall be considered owned by an individual for the purposes of this section; or
- c. A motorcycle, motorized scooter or other similar motorized vehicle not used for commercial purposes."

Sec. 2. G.S. 58-3.1 reads as rewritten:

"§ 58-3.1. Warranties by manufacturers, distributors, or sellers of goods or services.

(a) As used in this section:

(1) 'Goods' means all things that are moveable at the time of sale or at the time the buyer takes possession. 'Goods' includes things not in existence at the time the transaction is entered into; and includes things that are furnished or used at the time of sale or subsequently in modernization, rehabilitation, repair, alteration, improvement, or construction on real property so as to become a part of real property whether or not they are severable from real property.

(2) 'Services' means work, labor, and other personal services.

(b) Any warranty made solely by a manufacturer, distributor, or seller of goods or services without charge, or an extended warranty offered as an option and made solely by a manufacturer, distributor, or seller of goods or services for charge, that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor, or any other remedial measure, including replacement of goods or repetition of services, shall not be a contract of insurance under this Chapter.

(c) Nothing in this section affects the provisions of Article 3C of this Chapter. Any warranty or extended warranty made by any person other than the manufacturer, distributor, or seller of the warranted goods or services is a contract of insurance.

(d) As used in this subsection, the term 'home appliances' includes but is not limited to: Clothes washing machines and dryers; kitchen appliances; vacuum cleaners; sewing machines; home audio or video electronic equipment; home electronic data processing equipment; and heaters and air conditioners, other than permanently installed units using internal ductwork. Notwithstanding subsection (c) of this section, a corporation may be organized solely for the purpose of providing third party extended warranties for home appliances; provided that such corporation escrows or reserves, in a bank or banks approved by the Commissioner, a percentage of the corporation's fees for such extended warranties, as required by rules adopted by the Commissioner; and provided that such escrowed or reserved money shall be used only for the payment of claims under such extended warranties during the periods of the warranties. Every such corporation shall be subject to the provisions of Article 3A of this Chapter and G.S. 58-9.7, 58-16, 58-16.1, 58-16.2, 58-17, 58-18, 58-21, 58-22, 58-25, 58-25.1, 58-27, and 58-63. The Commissioner is authorized to adopt rules to further the purposes of this subsection. Upon compliance with the provisions of this subsection and rules adopted by the Commissioner, such corporation shall be issued a certificate of authority to provide such extended warranties."

Sec. 3. Section 1 of this act shall become effective February 1, 1990, and shall apply to policies written on or after that date. Section 2 of this act shall become effective January 1, 1990. This section is effective upon ratification.

In the General Assembly read three times and ratified this the 12th day of August, 1989.