

**Title 23. Public Utilities and Regulated Industries**

**Chapter I. State Insurance Department, Department of Commerce**

**Subchapter A. Generally**

**Part 36. Creating a Legal Framework Within Which Service Contracts are Defined, Sold, and Regulated**

**Codification Notes.** This part as promulgated prior to codification into the Code of Arkansas Rules of 2024 provided as follows:

**“Section 1. Authority**

This rule is promulgated by the Arkansas Commissioner of Insurance pursuant to Ark. Code Ann. § 23-61-108, Ark. Code Ann. §§ 25-15-201, et seq., and the Service Contracts Act, codified at Ark. Code Ann. §§ 4-114-101, et seq.”

**“Section 9. Effective Date**

The effective date of this Rule is October 1, 2007.”

**23 CAR § 36-101. Purpose and scope.**

(a) The purposes of this part are to:

(1) Create a legal framework within which service contracts are defined, may be sold, and are regulated in this state;

(2) Add significant consumer protections; and

(3) Eliminate unnecessary administration.

(b)(1) A service contract, as defined in the Service Contracts Act, Arkansas Code § 4-114-101 et seq., and this part, is not insurance and is not subject to the Arkansas Insurance Code.

(2) The Service Contracts Act and this part do not apply to the agreements and transactions set forth in Arkansas Code § 4-114-102(c).

**Authority.** Arkansas Code §§ 4-114-101, 23-61-108.

**Codification Notes.** The Arkansas Insurance Code was enacted by Acts 1959, No. 148.

**23 CAR § 36-102. Definitions.**

As used in this part:

(1) “Administrator” means the person who is responsible for the administration of a service contract;

(2) “Commissioner” means the Insurance Commissioner of the State of Arkansas;

(3) “Consumer” means an individual who buys other than for purposes of resale any tangible personal property that is:

(A) Distributed in commerce; and

(B) Normally used for personal, family, or household purposes and not for business or resale purposes;

(4) “Person” means:

(A) An individual;

(B) A partnership;

(C) A corporation;

(D) An incorporated or unincorporated association;

(E) A joint stock company;

(F) A reciprocal;

(G) A syndicate; or

(H) Any similar entity or combination of entities acting in concert;

(5) "Premium" means the consideration paid to an insurer for a reimbursement insurance policy;

(6) "Provider" means a person who is contractually obligated to the service contract holder under the terms of the service contract;

(7) "Provider fee" means the consideration paid for a service contract;

(8) "Reimbursement insurance policy" means a policy of insurance issued to a provider to either:  
(A) Provide reimbursement to the provider under the terms of the insured service contracts issued or sold by the provider; or

(B) In the event of the provider's nonperformance, to pay on behalf of the provider all covered contractual obligations incurred by the provider under the terms of the insured service contracts issued or sold by the provider;

(9)(A) "Service contract" means a contract or an agreement for a separately stated consideration and for a specific duration to perform the service, repair, replacement, or maintenance of property or indemnification for service, repair, replacement, or maintenance for the operational or structural failure of property due to a defect in materials, workmanship, or normal wear and tear, with or without additional provision for incidental payment of indemnity under limited circumstances, including without limitation:

- (i) Unavailability of parts;
- (ii) Obsolescence;
- (iii) Food spoilage;
- (iv) Rental; or
- (v) Shipping.

(B) "Service contract" does not include mechanical breakdown insurance or maintenance agreements.

(C) A service contract may provide for the repair, replacement, or maintenance of property for damage resulting from power surges or accidental damage from handling.

(D) A service contract is not insurance in this state or otherwise regulated under the Arkansas Insurance Code; and

(10) "Service contract holder" means a person who is the purchaser or holder of a service contract.

**Authority.** Arkansas Code §§ 4-114-101, 23-61-108.

**Codification Notes.** The Arkansas Insurance Code was enacted by Acts 1959, No. 148.

**23 CAR § 36-103. Requirements for doing business.**

(a)(1) Service contracts shall not be issued, sold, or offered for sale in this state unless the provider or its designee has complied with the requirements of Arkansas Code § 4-114-104(b).

(2) Each provider of service contracts sold in this state shall file a registration with the Insurance Commissioner annually on or before October 1 of each year using the form attached to this part or a substantially similar form.

(3) Each provider shall pay to the commissioner a fee in the amount of two hundred dollars (\$200) upon initial registration and every year thereafter.

(4) The registration shall be updated by written notification to the commissioner if material changes occur in the registration.

(5) In addition to the registration, each provider of service contracts sold in this state must also submit a certificate of compliance using the form attached to this part or a substantially similar form.

(b) In order to ensure the faithful performance of a provider's obligations to its contract holders, each provider shall comply with the financial requirements of Arkansas Code § 4-114-104(d).

**Authority.** Arkansas Code §§ 4-114-101, 23-61-108.

**23 CAR § 36-104. Required disclosures and prohibited acts.**

(a) A service contract issued, sold, or offered for sale in this state shall be written in clear, understandable language that is easy to read and must conspicuously disclose the requirements of Arkansas Code § 4-114-106.

(b) It is a violation of this part and the Service Contracts Act, Arkansas Code § 4-114-101 et seq., for a provider to engage in any act prohibited by Arkansas Code § 4-114-107.

**Authority.** Arkansas Code §§ 4-114-101, 23-61-108.

**23 CAR § 36-105. Recordkeeping requirements.**

(a) A provider shall keep accurate accounts, books, and records concerning transactions regulated under the Service Contracts Act, Arkansas Code § 4-114-101 et seq.

(b) Providers must comply with all recordkeeping requirements set forth in Arkansas Code § 4-114-108.

**Authority.** Arkansas Code §§ 4-114-101, 23-61-108.

**23 CAR § 36-106. Enforcement.**

(a)(1) The Insurance Commissioner may conduct investigations or examinations of providers, administrators, insurers, or other persons to enforce the provisions of the Service Contracts Act, Arkansas Code § 4-114-101 et seq., and this part and to protect service contract holders in this state.

(2) The commissioner may take any action that is necessary and appropriate to enforce the provisions of the Service Contracts Act and this part, including but not limited to the actions authorized by Arkansas Code § 4-114-111.

(b) Upon request by the commissioner, a provider shall submit to the commissioner any requested documents or other evidence of compliance with the Service Contracts Act and this part.

**Authority.** Arkansas Code §§ 4-114-101, 23-61-108.

**23 CAR § 36-107. Severability.**

If any provision of this part or its application to any person or circumstance is for any reason held to be invalid, the remainder of the part and the application of the provision to other persons or circumstances shall not be affected.

**Authority.** Arkansas Code §§ 4-114-101, 23-61-108.



Arkansas Insurance Department  
1200 West Third Street, Little Rock, AR 72201-1904

**SERVICE CONTRACT PROVIDER REGISTRATION FORM**

Unless exempt, a provider of a service contract in Arkansas issued on or after October 1, 2007 is required to register with the Arkansas Insurance Department. For information on service contracts, see Arkansas Code Annotated §§ 4-114-101, et seq. and Arkansas Insurance Department Rule 91.

Return Completed Form with Registration Fee to:  
Arkansas Insurance Department, Finance Division  
1200 West Third Street, Little Rock, Arkansas 72201-1904  
501-371-2665, Fax 501-371-2747  
<http://www.insurance.arkansas.gov/finance/divpage.htm>

**Registration Information**

\_\_\_\_\_ Original Registration or \_\_\_\_\_ Annual Renewal Registration

\_\_\_\_\_ \$200 Registration Fee Enclosed. Check made payable to: State Insurance Department Trust Fund.

**Provider Identification Information**

1. Legal Name of Provider: \_\_\_\_\_  
Trade Name (if different) \_\_\_\_\_  
Principal Business Street Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Contact Person: \_\_\_\_\_ E-mail Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_ Facsimile Number: \_\_\_\_\_
  
2. Domicile of Provider: \_\_\_\_\_
  
3. Name and Contact Information for Provider's Representative to handle inquiries in Service Contracts Sold in Arkansas (if different than the contact person listed in item number one):  
  
Name: \_\_\_\_\_ E-mail Address: \_\_\_\_\_  
Principal Business Street Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_ Facsimile Number: \_\_\_\_\_
  
4. List the States in which the Provider is engaged in the business of providing Service Contracts:  
  
\_\_\_\_\_
  
5. Are there any administrative or regulatory actions that have been taken or are pending against the Provider by any governmental agency within the last ten (10) years?  
  
\_\_\_\_\_ Yes \_\_\_\_\_ No If yes, attach a detailed explanation of any such actions.



requirements of the Service Contracts Act, Ark. Code Ann. §§ 4-114-101, et seq. I further certify that the service contracts issued by the Provider named herein comply with the disclosure requirements of Ark. Code Ann. § 4-114-106.

Signature

Print Name

Date

Notary Information

The foregoing instrument was signed and acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_ by \_\_\_\_\_, personally known or made known to me.

(Notary Public)

My Commission Expires



ARKANSAS INSURANCE DEPARTMENT  
SERVICE CONTRACT PROVIDER BOND FORM

BOND NO. \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS:

That we, \_\_\_\_\_, as Principal, a corporation organized under the laws of the State of \_\_\_\_\_, and \_\_\_\_\_, a corporation as Surety, organized and existing under the laws of the State of \_\_\_\_\_ and duly authorized to transact the business of surety in the State of Arkansas, are held and firmly bound unto the Commissioner of Insurance of the State of Arkansas in the sum of not less than five percent (5%) of the gross consideration received, less claims paid, on the sale of the service contract for all service contracts issued and in force, but not less than Twenty-Five Thousand Dollars (\$25,000), for the benefit of any person referred to in the conditions of this bond for which payment, well and truly made, we hereby bind ourselves, our successors and assigns, jointly, severally and firmly by these presents.

The conditions of the above obligation are such that:

WHEREAS: The said Principal has applied to the Commissioner of Insurance of the State of Arkansas for authority as a service contract provider, and in accordance with the provisions of Arkansas Code Title 4 Chapter 114, as amended, is required to give a corporate surety bond for the benefit of any contract holder who may suffer loss resulting from fraud or dishonesty or insolvency or impairment or unwillingness to perform on the part of said Principal.

NOW THEREFORE, if the said Principal shall promptly pay, when due, all claims and obligations arising or occurring in this state by virtue of any bond or contract made by said Principal, and all amounts due the State of Arkansas, by virtue of any statute, and in all respects comply with Arkansas Code Title 4 Chapter 114 of the laws of said State, then this obligation shall become void, otherwise to remain in full force and effect.

The total aggregate liability under this bond is limited to the sum of \$ \_\_\_\_\_.

This bond shall be deemed continuous in form and shall remain in full force and effect unless terminated or cancelled in a manner hereinafter provided.

By order of said Commissioner of Insurance; or

By the Surety delivering thirty (30) day written notice to the Arkansas Insurance Department that the bond will be canceled.

Such cancellation or termination shall not affect any liability incurred or accrued hereunder prior to the termination or cancellation of said bond by said Department of Insurance or prior to the termination of the thirty (30) day period for notice if terminated by Surety.

WITNESS our hands and seal this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

By: \_\_\_\_\_  
(Principal)

By: \_\_\_\_\_

(Surety)