



NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Benjamin M. Lawsky
Superintendent

Circular Letter No. 5 (2013)

June 13, 2013

To: All Registered Service Contract Providers and Authorized Property/Casualty Insurers

Re: Applicability of Insurance Law Article 79 to Providers Conducting Business in the State

STATUTORY REFERENCE: Insurance Law Article 79

Summary

A service contract provider whose service contracts are issued, sold or offered for sale in New York State, regardless of whether the provider is itself doing these activities in the State or from outside of the State, must be registered as a service contract provider in New York State and must otherwise comply with Insurance Law Article 79, including those provisions that require the filing of provider fees for certain types of service contracts.

Discussion

The Department of Financial Services (“Department”) has received inquiries whether Article 79 applies to service contract providers that are located outside New York State but whose service contracts are sold in New York State, including whether non-New York service contract providers that provide service contracts for the repair of cracks and chips in motor vehicle windshields (“windshield repair”) and for the repair or removal of dents, dings, and creases from a motor vehicle using a paintless repair process (“paintless dent repair”) must file the amount of their provider fees with the Department pursuant to Insurance Law § 7903(a).

Insurance Law § 7903(b) states that a service contract may not be issued, sold or offered for sale in New York State unless the service contract provider is in compliance with Insurance Law Article 79. To be in compliance with Insurance Law Article 79, the provider making sales in New York State must, among other things, be registered in New York State as a service contract provider and, if providing windshield repair and paintless dent repair, file the amount of its provider fees with the Department pursuant to Insurance Law § 7903(a). By its clear terms, the law’s applicability is based not upon the location of the provider, but rather upon the provider’s issuance, sale or offering for sale of a service contract in New York State. A sale in New York State includes sales to service contract holders in New York effectuated through the mail; through a website, phone, fax, or other electronic communication; or through an agent of the provider acting in the state, whether these forms of communication are initiated from within or outside of the state.

Conclusion

Any person who is the obligated party under a service contract that is issued, sold or offered for sale in New York State, whether in person, through the mail, via a website, phone, fax, or other electronic communication, or through an agent, must comply with Article 79, including its provisions regarding the filing of provider fees with the Department, whether or not the provider is located in or outside of New York State.

Any questions regarding this Circular Letter may be directed to:

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