# Rules of Department of Insurance, Financial Institutions and Professional Registration

## Division 200—Insurance Solvency and Company Regulation

### Chapter 18—Service Contracts

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20 CSR 200-18.020 Faithful Performance of a Motor Vehicle Extended Service Contract Provider’s Obligations

PURPOSE: The purpose of this rule is to effectuate the provisions of sections 385.200 to 385.220, RSMo, regarding the registration of all motor vehicle extended service contract providers in this state.

(1) Each “provider,” as that term is used in sections 385.200 to 385.220, RSMo, shall register with the director by completing and filing an application for motor vehicle service contract provider registration. Effective January 1, 2008, each provider is required to register at the following times:

(A) Before issuing any “motor vehicle extended service contract,” as that term is used in section 385.200, RSMo, unless such issuance occurs in January 2008, in which case registration must occur between January 1 and February 1 of 2008; and

(B) Annually thereafter between January 1 and February 1.

(2) Each completed and filed application for registration must be accompanied by payment of a registration fee of five hundred dollars ($500).

(3) Copies of a recommended, but not mandatory, application for motor vehicle service contract provider registration form are available at the department’s office, at the department website, www.insurance.mo.gov, or by mailing a written request to the Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

(4) For purposes of this rule and rule 20 CSR 200-18.020, the term “provider” refers only to the party that is contractually obligated to provide service under a motor vehicle extended service contract. Such term does not refer to an administrator or seller of the product that is not so obligated.


(B) Each provider electing to maintain a funded reserve account, as set forth in section 385.202.3(2)(a), RSMo, and subsection (1)(B) of this rule, shall establish and maintain such account in accordance with each of the following requirements:

1. Such account shall be maintained in cash or cash equivalent in either:
   A. A "qualified United States financial institution" as that term is defined in section 375.246.3(2), RSMo; or
   B. Such other financial institution as specifically approved in writing by the director;

2. At least forty percent (40%) of gross considerations received on the sale of each service contract shall be deposited into such account;

3. No check or draft may be drawn on such account, except for:
   A. The payment of a claim under a service contract for which at least forty percent (40%) of the gross consideration was deposited into such account; or
   B. Payment to the provider at the expiration of a service contract of any positive balance of the difference between the sums deposited into such account under such contract and the claims paid from such account under such contract, provided, however, that no such payment may be made to the provider if after such payment the balance in such account would be less than the difference between forty percent (40%) of the total gross considerations received under all such contracts and the claims paid on all such contracts;

   C. Such payment as the director may specifically approve in writing; and

4. Any cash withdrawal from or check or draft payable to cash or bearer drawn on such account shall be presumed in violation of this rule, unless sufficient written evidence is maintained showing that such withdrawal, check or draft was made for one of the purposes listed in subparagraphs (2)(B)3.A., B., or C. above.

(C) Each provider placing in trust with the director a financial security deposit, as set forth in section 385.202.3(2)(b), RSMo, and subsection (1)(B) of this rule, shall comply with the following requirements:

1. The amount of such deposit shall at least equal the greater of five percent (5%) of the gross consideration received, less claims paid, on the sale of all service contracts issued and in force or twenty-five thousand dollars ($25,000); and

2. To the extent, if any, that such deposit consists of:
   A. Cash or securities as permitted by section 385.202.3(2)(b)b or c, RSMo, such deposit shall be made with the same depositary and upon the same terms and conditions as the capital deposits of insurance companies domiciled in this state, except that the amount of the deposit will be determined by the provisions of section 385.202.3(2)(b), RSMo and this rule;
   B. A surety bond, as provided in section 385.202.3(2)(b)a, RSMo, that shall be acceptable only if the bond is completed on the Bond of Motor Vehicle Service Contract Provider Form (Form SC-1) and is filed with the provider along with the provider’s completed provider exhibit; or
   C. A letter of credit, as provided in section 385.202.3(2)(b)bd, RSMo, that shall comply with the following requirements:
      I. The letter of credit must be issued by a "qualified financial institution" as defined in section 375.246.3(1), RSMo, or such other financial institution as specifically approved in writing by the director; and
      II. The terms of the letter of credit must comply with the terms and conditions for letters of credit stated in subsections (A), (B), (C), and (D) of section 9 of 20 CSR 200-2.100, including, but not limited to, the requirements that such letter of credit be clean, irrevocable, and unconditional, except that the beneficiary shall be the director and his or her successors in office.
   D. Each provider maintaining a net worth of one hundred (100) million dollars and establishing such net worth through the provider’s parent company, as set forth in section 385.202.3(2)(b), RSMo, and subsection (1)(C) of this rule, shall comply with the following requirements with respect to the guaranty of the parent company:
      1. The guaranty shall be in writing and shall conform to the Guaranty of Motor Vehicle Service Contract Obligations Form (Form SC-2);
      2. The guaranty shall be filed with the director along with the provider’s completed provider exhibit.

3. Forms. The following forms have been adopted and approved for filing with the director under this rule:
   A. The Bond of Motor Vehicle Service Contract Provider Form (Form SC-1), revised on January 2, 2008; and

4. For purposes of this rule and rule 20 CSR 200-18.020, the term “provider” refers only to the party that is contractually obligated to provide service under a service contract. Such term does not refer to an administrator or seller of the product that is not so obligated.


20 CSR 200-18.120 Faithful Performance of a Service Contract Provider’s Obligations (Non-Motor Vehicle)

PURPOSE: This rule effectuates the provisions of sections 385.300 to 385.320, RSMo, regarding assuring the faithful performance of a provider’s obligations to its contract holders.

(1) Each provider who is contractually obligated to the service contract holder under the terms of a service contract shall:

(A) Insure all service contracts under a reimbursement insurance policy as provided in section 385.302.4(3), RSMo;

(B) Maintain a funded reserve account and place in trust with the director a financial security deposit as provided in section 385.302.4(1)(a) and (b), RSMo; or

(C) Maintain a net worth of at least one hundred (100) million dollars as provided in section 385.302.4(2)(a), RSMo, and provide the information required under section 385.302.4(2)(b), RSMo.

(2) To assure the faithful performance of a provider’s obligations to its contract holders:

(A) Each provider electing to insure all service contracts under a reimbursement insurance policy, as set forth in section 385.302.4(3), RSMo, and subsection (1)(A) of this rule, shall comply with the following requirements:

1. Any such policy shall be issued by an insurance company authorized to transact insurance in this state. As used in this paragraph, the term “insurance company authorized to transact insurance in this state” means either an insurance company with a valid certificate of authority from the director to transact liability insurance or a financially responsible risk retention group. A financially responsible risk retention group is any risk retention group (RRG) that meets each of the following requirements:

   A. Such RRG is registered with the director pursuant to sections 375.1080 to 375.1105, RSMo.

   B. Such RRG files with the director its most recent sworn annual statement reporting at a minimum its balance sheet (assets and liabilities, surplus and other funds), income statement or statement of profit and loss (summary of operations), and cash flow statement, which annual statement:

      (I) Was prepared with the consistent application of statutory accounting principles, as shown by the National Association of Insurance Commissioners’ (NAIC’s) Accounting Practices and Procedures Manual as provided in 20 CSR 200-1.020, with only those deviations from such principles as are commonly allowed insurance companies which possess a certificate of authority from the director to transact liability insurance; and

      (II) Has been, within five (5) years after the “as of” date of such annual statement, examined by this department or any other state insurance regulatory authority which was, at the time of the examination, accredited pursuant to the Financial Regulation Standards and Accreditation Program of the NAIC; and

   C. The payment of a claim under a service contract for which at least forty percent (40%) of the gross consideration was paid, on the sale of all service contracts and the claims paid from such account would be less than the difference between forty percent (40%) of the gross considerations received under all such contracts and the claims paid on all such contracts; or

   D. Such payment as the director may specifically approve in writing; and

   4. Any cash withdrawal from or check or draft payable to cash or bearer drawn on such account shall be presumed in violation of this rule, unless sufficient written evidence is maintained showing that such withdrawal, check or draft was made for one (1) of the purposes listed in subparagraphs (2)(B)3. A, B, or C above.

   (C) Each provider placing in trust with the director a financial security deposit, as set forth in section 385.302.4(1)(b), RSMo, and subsection (1)(B) of this rule, shall comply with the following requirements:

      1. The amount of such deposit shall at least equal the greater of five percent (5%) of the gross consideration received, less claims paid, on the sale of all service contracts issued and in force or twenty-five thousand dollars ($25,000); and

      2. To the extent, if any, that such deposit consists of:

         A. Cash or securities as permitted by section 385.302.4(1)(b)b or c, RSMo, such...
deposit shall be made with the same deposi-
tary and upon the same terms and conditions
as the capital deposits of insurance companies
domiciled in this state, except that the amount
of the deposit will be determined by the pro-
visions of section 385.302.4(1)(b), RSMo
and this rule;

B. A surety bond, as provided in sec-
tion 385.302.4(1)(b)a, RSMo, that shall be
acceptable only if the bond is completed on
the Bond of Service Contract Provider Form
(Form SC-3) and is filed with the director
along with the provider’s completed provider
exhibit; or

C. A letter of credit, as provided in
section 385.302.4(1)(b)d, RSMo, that shall
comply with the following requirements:
(I) The letter of credit must be
issued by a “qualified financial institution” as
defined in section 375.246.3(1), RSMo, or
such other financial institution as specifically
approved in writing by the director; and

(II) The terms of the letter of cred-
it must comply with the terms and conditions
for letters of credit stated in subsections (A),
(B), (C) and (D) of section (9) of 20 CSR
200-2.100, including, but not limited to, the
requirements that such letter of credit be
clean, irrevocable and unconditional, except
that the beneficiary shall be the director and
his or her successors in office.

(D) Each provider maintaining a net worth
of one hundred (100) million dollars and
establishing such net worth through the
provider’s parent company, as set forth in
section 385.302.4(2)(b), RSMo, and subsec-
tion (1)(C) of this rule, shall comply with the
following requirements with respect to the
guaranty of the parent company:
1. The guaranty shall be in writing and
shall conform to the Guaranty of Service
Contract Obligations Form (Form SC-4); and
2. The guaranty shall be filed with the
director along with the provider’s completed
provider exhibit.

(3) Forms. The following forms have been
adopted and approved for filing with the
director under this rule:
(A) The Bond of Service Contract Provider
Form (Form SC-3), revised on January 2,
2008; and
(B) The Guaranty of Service Contract
Obligations Form (Form SC-4), revised on
May 19, 2008. Copies of the forms are avail-
able at the department’s office, at the depart-
ment website, www.insurance.mo.gov, or by
mailing a written request to the Department
of Insurance, Financial Institutions and Pro-
fessional Registration, PO Box 690, Jefferson
City, MO 65102.

AUTHORITY: section 385.318, RSMo Supp.
2007.* Original rule filed Jan. 29, 2008,