

**Frequently Asked Questions  
New Hampshire Revised Statute Annotated (“RSA”) 415-C**

**CONSUMER GUARANTY CONTRACTS**

*Disclaimer: This document is intended only as a guide and may be subject to change without notification. Users should refer to NH statute RSA 415-C, other applicable statutes and rules and the assistance of counsel for further explanation or confirmation of answers. Users may also contact the Insurance Department for assistance.*

**1. Q: What does New Hampshire statute, RSA 415-C do?**

**A:** This law regulates consumer guaranty contracts, which are agreements that have insurance-like features and are subject to similar financial and market issues, but are not traditional insurance products nor are they normally sold by traditional insurance producers.

**2. Q: What laws and rules does RSA 415-C replace?**

**A:**

- Former RSA 415-C: prepaid legal contracts
- RSA 293:9: changes to RSA 415-C
- RSA 407:A: motor vehicle warranty agreements
- INS 2500: home warranty insurance

**3. Q: Under this law, what are the New Hampshire Insurance Department’s (“Department”) responsibilities?**

**A:** The Department will:

- Track by registration those legally obligated (“obligors”) under these contracts;
- Require obligors to prove financial stability and practice fair marketing;
- Aid consumers who seek help; and
- Investigate complaints and impose penalties when appropriate.

**4. Q: What types of agreements are consumer guaranty contracts? (415-C: 1(III)(a))**

**A:** The following agreements are considered consumer guaranty contracts:

- Service contracts, also known as extended warranties or warranty service contracts including:
  - Motor vehicle service contracts or extended warranty agreements;
  - Home service contracts or extended warranty agreements;
  - Consumer product service contracts or extended warranty agreements;
- Prepaid legal contracts;
- Debt cancellation or suspension contracts not subject to federal (12 C.F.R. § 37) or state banking law; and
- Contracts deemed by the commissioner by rule or order subject to this chapter.

**5. Q: What types of agreements are not consumer guaranty contracts? (415-C: 1(III)(c))**

**A:** The following types of agreements are not considered:

- Expressed or implied warranties;
- Maintenance agreements;
- Motor vehicle road service, tourist service and repairs under RSA 407-C;
- Warranties, service contracts, or maintenance agreements offered by public utilities on their transmission devices regulated by the public utilities commission;
- Warranties, service contracts, and maintenance agreements that are conditioned upon or otherwise associated with the sale or supply of heating fuel;
- Warranties, service contracts, and maintenance agreements sold or offered for sale to persons other than consumers. This provision does not apply to prepaid legal contracts, which may be offered to any governmental corporation, unit, agency, or Department, or to any employer or association of employers, a labor union or other similar employee organization, including the trustees of a fund established by such labor union or employee organization. The terms

“employee” and “employees” shall have the same meaning as are given to such terms for the purpose of writing group life insurance in this state.

**6. Q: What are an obligor’s registration requirements? (415-C: 3(I))**

**A:** No obligor shall offer, administer, sell, solicit, negotiate, or act under a consumer guaranty contract in NH unless:

1. The obligor registers with the Department, on form provided by the Department, and pays required fee, or
2. The obligor is an authorized insurer in this state to issue specified lines of consumer guaranty contracts.

**7. Q: Are obligors exempt from the state’s insurance laws? (415-C: 2(III))**

**A:** Yes, except as provided for in this law, RSA 415-C or in RSA 400-A: 16 through RSA 400-A: 25, relating to investigations, enforcement and hearings.

**8. Q: If an obligor offers both consumer guaranty contracts and insurance, are they required to follow the law and rules as they apply to each type of agreement? (415-C: 2(IV))**

**A:** Yes

**9. Q: What is RSA 415-C effective date?**

**A:** January 1, 2005

**10. Q: When must an obligor register? (415-C: 3(III))**

**A:** Every year, by June 14<sup>th</sup>.

**11. Q: What is a “sales representative”? (415-C: 1(XIII))**

**A:** It is any person that is not an obligor, which sells, solicits, or issues consumer guaranty contracts on behalf of an obligor.

**12. Q: Do sales representatives have to register? (415-C: 2, 415-C: 3 (IV))**

**A:** No, if they are not obligors under the contract.

**13. Q: Do an obligor’s employees have to register? (415-C: 3(IV))**

**A:** No, if the obligor is authorized to do business in the State of New Hampshire.

**14. Q: What provisions must manufacturers who offer manufacturer service contracts comply by? (415-C: 2(I))**

**A:**

- Recordkeeping requirements (RSA 415-C: 5)
- Contract Disclosure Requirements (RSA 415-C: 6)
- Prohibited Acts and Terms (RSA 415-C: 7)
- Examination (RSA 415-C: 9)
- Penalties (RSA 415-C: 10)

**15. Q: How does an obligor show financial responsibility? (415-C: 4)**

**A:** As part of registration, the obligor will need to show financial responsibility by one of the following:

1. **Bond.** Must file a bond for whichever is greater of:
  - \$25,000, or
  - 5 percent of all consumer guarantee contracts sold in NH, subject to a \$250,000 maximum;
2. **Reimbursement Insurance Policy.** Must provide proof of coverage with an insurer authorized to do business in this state; or

3. **Capital.** Must attach Obligor's annual audited financial statement, certified by a public accountant, or Form 10K or 20F filed with the United States Securities and Exchange Commission that shows:
- Minimum net worth of \$25,000,000, or
  - Minimum stockholders' equity of \$25,000,000.

**16. Q: How long must an obligor keep records on individual contracts issued, contract holders and claims submitted? (415-C: 5(1)(c))**

**A:** Three years after coverage has expired.

**17. Q: Are consumer guaranty contracts subject to form review by the Department?**

**A:** No, unless the contract is subject to a Departmental examination or investigation.

**18. Q: What consumer protections need to be disclosed with a consumer guaranty contract? (415-C: 6)**

**A:** The following protections need to be disclosed with the consumer guaranty contract to the contract holder:

- Receipt or other written evidence of purchase of consumer guaranty contract;
- Copy of contract between the parties;
- Date and clear language, with easy to read type;
- The total purchase price of the consumer guaranty contract;
- Specific products and services to be provided and any limitations, exceptions or exclusions;
- Any applicable deductible amounts;
- Terms, restrictions or conditions governing transferability, cancellation and termination of the contract;
- All the obligations of the contract holder, including meeting certain conditions, protecting against further damage and requiring certain service and maintenance;
- The procedure for obtaining prior approval, if such is required;
- The procedure to make claims and receive service under contract, including a toll-free number;
- Procedure for contract holder to discuss with obligor questions and complaints, including how to contact the Department if necessary.

**19. Q: Under what circumstances can an obligor exempt preexisting conditions from coverage? (415-C: 6(IV))**

**A:** The consumer guaranty contract must state the basis upon which the service or promised performance may be denied for such preexisting condition.

**20. Q: What acts or contractual terms are prohibited under RSA 415-C? (415-C: 7)**

- A:** Generally,
- The obligor or its representative cannot make statements that are false, misleading, fraudulent or claims to be "insurance".
  - An obligor cannot fail to perform in a timely, competent manner.

**21. Q: Does this law provide a cause of action, or prohibit causes of action based on other laws? (415-C: 7(V))**

**A:** No

**22. Q: May the Commissioner of Insurance levy penalties against the obligor? (415-C: 10)**

**A:** Yes, subject to the insurance hearing statutes, the Commissioner can suspend or revoke the obligor's registration, order the obligor to cease and desist from offering any further products, impose monetary penalties or order the obligor to make restitution.

**23. Q: If the Obligor adds or removes an Administrator that it currently is using, does the NH Insurance Department need to be notified?**

**A:** Yes, when an Administrator is added or removed, the Obligor must notify the NH Insurance Department of this change within 90 days.