
Business & Financial Services Committee

HB 2136

Brief Description: Addressing the regulation of service contracts and protection product guarantees.

Sponsors: Representatives Parker, Stanford and Kirby.

Brief Summary of Bill

- Exempts service contract providers from providing annual audited financial statements to the Insurance Commissioner where such service contract providers demonstrate financial responsibility by insuring their service contracts with an insurer or a risk retention group.

Hearing Date: 1/14/14

Staff: Linda Merelle (786-7092).

Background:

Service Contracts.

Certain transactions that fall within the definition of insurance have been addressed by exemptions from the Insurance Code (Code) or the creation of a specific regulatory structure. Entities regulated under these chapters may not be required to comply with the same capitalization and reserve requirements, reporting and solvency oversight, and claims handling practices as are required of an insurer selling a traditional insurance product. In 1990 the Legislature created a chapter in the Code to regulate motor vehicle service contracts. In 1999 a chapter in the Code was created for the regulation of service contracts. In 2006 the Legislature overhauled the service contract chapter, included motor vehicle service contracts and "protection products," and repealed the motor vehicle service contracts chapter. In 2010 the scope of the definition of a "service contract" was expanded to include contracts and agreements for separate consideration and for a specific duration to perform the repair or replacement of tires or wheels damaged as a result of coming into contact with road hazards.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Regulatory Oversight of Service Contract Providers.

A service contract provider must meet requirements regarding financial responsibility, record-keeping, form filings, disclosures, and provisions that allow a consumer to return the contract and obtain a refund within 30 days of purchase, if no claim is made.

Financial Responsibility of Service Contract Providers.

A service contract provider must demonstrate its financial responsibility or assure the faithful performance of its obligations to its service contract holders. For consumer goods, a service contract provider must do one of the following:

- insure all service contracts under a reimbursement insurance policy issued by an insurer that holds a certificate of authority from the Insurance Commissioner (Commissioner) or a risk retention group. The risk retention group must be in full compliance with the federal requirements, in good standing in its domiciliary jurisdiction, and properly registered with the Commissioner;
- maintain a funded reserve account for its obligations under its service contracts issued and outstanding in Washington; or
- maintain a net worth or stockholder's equity of at least \$100 million.

For motor vehicles, the service contract provider must demonstrate responsibility or assure faithful performance of the service contract provider's obligations by insuring all service contracts under a reimbursement insurance policy issued by an insurer holding a certificate of authority from the Commissioner or a risk retention group that is in full compliance with federal laws, in good standing in its domiciliary jurisdiction, and properly registered with the Commissioner.

Requirements for Registration of Service Contract Providers.

Service contract providers must make an application to register with the Commissioner. Persons selling and marketing service contracts are not required to register with the Commissioner unless they are service contract providers.

Among other things, the application of the service contract provider must include or be accompanied by (1) audited annual financial statements or other financial reports acceptable to the Commissioner for the two most recent years which prove that the applicant is solvent and (2) any information the Commissioner may require for review of the current financial condition of the applicant. If the service contractor, or the parent company of the service contractor, intends to maintain a net worth or stockholder's equity of at least \$100 million in order to comply with the financial responsibility requirements (as allowed by RCW 48.110.050(2)(c)), then the audited financial statements of the service contract provider's parent company must also be filed.

The Commissioner may suspend or revoke the registration of a service contract provider for failure to comply with the specific requirements.

Penalties for Violations.

The Commissioner may take enforcement actions for violations of the service provider statutes. A violation of the service contract chapter is also a violation of the Consumer Protection Act.

Summary of Bill:

A service provider that demonstrates its financial responsibility and provides assurance of its obligations to its service contract holders by insuring its service contracts under a reimbursement insurance policy issued by an insurer or a risk retention group is not required to provide annual audited financial statements or other financial reports to the Commissioner.

Appropriation: None.

Fiscal Note: Requested on 1/13/14.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.