

FINAL BILL REPORT

HB 2052

C 112 L 99

Synopsis as Enacted

Regulating service contracts.

By Representatives Barlean, Keiser, Benson and Hatfield; by request of Attorney General.

House Committee on Financial Institutions & Insurance
Senate Committee on Commerce, Trade, Housing & Financial Institutions

Background:

Many retailers sell service contracts to consumers. Service contracts are agreements to repair, replace, or maintain merchandise for a given period of time. Service contracts offer protections in addition to any guarantees that are offered under the warranties provided by the manufacturers, importers, or sellers of merchandise.

If a retailer who sells service contracts goes out of business, the retailer no longer exists to perform the pre-paid services or to refund the consideration consumers paid for the service contracts.

Summary:

Retailers selling service contracts in Washington are required to first register with the Insurance Commissioner. To be registered, the retailer must comply with filing, reporting, and record keeping requirements. The Insurance Commissioner may investigate service contract providers and is responsible for enforcement. The Insurance Commissioner may deny, suspend, or revoke registration to sell service contracts after notice and hearing if the service contract provider operates irresponsibly or deceptively. Registration may be suspended without notice and hearing if the service contract provider becomes insolvent, bankrupt, or otherwise poses an imminent threat to the public. The Insurance Commissioner may impose a fine of up to \$2,000 per violation in lieu of suspension.

Service contract providers must give consumers a written receipt and a copy of the service contract. The service contract must be written in plain language, must contain certain disclosures, must describe the process for obtaining service and filing a claim, and must state the consumer's duties under the contract. The contract may not require out of state adjudication. Consumers are allowed to return service contracts for a full refund within 20 days of the date the service contract was mailed to them,

within 10 days of delivery, or within a longer period of time as specified in the service contract. If a claim has been made on the service contract within that period, the contract may not be returned. If the purchase price is not remitted to the consumer within 30 days of the return of the service contract, the service contract provider must pay the consumer a 10 percent penalty per month until the money is refunded.

In addition, service contract providers must ensure the reliability of the contracts they sell by doing one of the following: (1) insuring the contracts under reimbursement insurance policies; (2) maintaining a reserve account of at least 40 percent of the gross receipts of service contract sales and depositing financial security with the Insurance Commissioner; or (3) maintaining a net worth or stockholders' equity of \$1,000,000, and upon request, providing the Insurance Commissioner with a copy of its most recent Securities and Exchange Commission filings.

Reimbursement insurance policies for service contracts must cover all costs associated with fulfillment of the service contract. The consumer may apply for relief directly to the reimbursement insurance company. Issuers of reimbursement insurance policies may not terminate policies until a filing notice of termination with the Insurance Commissioner. Service contract providers may not imply that they are insurance companies or that service contracts are insurance policies.

Lenders may not require consumers to obtain a service contract as a condition of obtaining a loan for or making a sale of any property.

Violations of this act are violations of the Consumer Protection Act.

Votes on Final Passage:

House 91 0
Senate 46 0

Effective: July 25, 1999