

HOUSE BILL REPORT

HB 2136

As Reported by House Committee On:
Business & Financial Services

Title: An act relating to the regulation of service contracts and protection product guarantees.

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

Sponsors: Representatives Parker, Stanford and Kirby.

Brief History:

Committee Activity:

Business & Financial Services: 1/14/14, 1/15/14 [DPS].

Brief Summary of Substitute 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.

HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Kirby, Chair; Ryu, Vice Chair; Parker, Ranking Minority Member; Vick, Assistant Ranking Minority Member; Blake, Fagan, Habib, Hawkins, Hudgins, Hurst, Kochmar, MacEwen, Santos and Stanford.

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

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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overhauled the service contract chapter, included motor vehicle service contracts and "protection products," and repealed the motor vehicle service contracts chapter.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.

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 Substitute 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 audited financial statements or other financial reports to the Commissioner. This exemption applies to service contract providers for both general consumer goods and motor vehicle products.

Substitute Bill Compared to Original Bill:

The bill is modified to clarify that the exemption applies to both service contract providers for general consumer goods and motor vehicle products.

Appropriation: None.

Fiscal Note: Requested on January 13, 2014.

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

Staff Summary of Public Testimony:

(In support) If service contract providers are already backed by insurance, they will not have to introduce financial statements for the insurance company. This will reduce the duplication of services. Washington is the only state that requires audited statements who have backing of a reimbursement policy. It is not uncommon for service contract providers to be a subsidiary within a large family of companies. The subsidiary, as the applicant, is its own entity. It may be a newly created entity or a company that does not have its own audited financials. Under Washington law, the applicant must provide the audited financials. This is extraordinarily expensive, particularly when Washington is the only state that requires it. The service contract providers and the industry can meet their financial obligations without being required to provide audited financial statements.

(Opposed) None.

Persons Testifying: Representative Parker, prime sponsor; and Mel Sorensen, Service Contract Industry Council.

Persons Signed In To Testify But Not Testifying: None.