

SENATE BILL REPORT

SB 5978

As Reported by Senate Committee On:
Financial Institutions, Housing & Insurance, January 28, 2014

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: Senators Hobbs and Fain.

Brief History:

Committee Activity: Financial Institutions, Housing & Insurance: 1/16/14, 1/28/14 [DPS].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Majority Report: That Substitute Senate Bill No. 5978 be substituted therefor, and the substitute bill do pass.

Signed by Senators Angel, Co-Chair; Hobbs, Co-Chair; Benton, Vice Co-Chair; Mullet, Vice Co-Chair; Fain, Hatfield, Nelson and Roach.

Staff: Edward Redmond (786-7471)

Background: A service contract is a contract for separate consideration for any specific duration to repair, replace, or maintain property; or indemnify for the repair, replacement, or maintenance of property. The company that is obliged to the customer under the service contract is referred to as the service contract provider. Service contracts are regulated by the Office of the Insurance Commissioner.

Registration. Service contract providers must register with the Insurance Commissioner (Commissioner) in order to conduct business in the state. Application procedures, requirements, and fees are set forth. Part of the application requirement includes providing audited annual financial statements or other acceptable financial reports to the Commissioner in order to validate the service contract provider's solvency and faithful performance of its obligations to service contract holders. If the service contract provider chooses to use cash to validate its solvency, then the audited financial statements of its parent company must also be filed.

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.

Financial Responsibility for Service Providers. A service contract provider may ensure that all obligations and liabilities are paid by choosing one of the following options:

- insure its service contracts with a reimbursement insurance policy;
- maintain a reserve account that includes a portion of the gross consideration received for all service contracts and give the Commissioner a financial security deposit;
- use a risk-retention group to insure the service contracts with a reimbursement insurer policy; or
- maintain or have the parent company maintain a net worth or stockholder's equity of \$100 million.

Summary of Bill (Recommended Substitute): The registration requirements for service contract providers of customer goods and motor vehicle programs are amended. Service contract providers who insure all service contracts under a reimbursement insurance policy through an insurer or risk-retention group as prescribed in statute are authorized to submit annual financial statements that are certified as accurate by two or more officers of the company. Such certified statements will substitute for the annual financial statements audited by a third party.

EFFECT OF CHANGES MADE BY FINANCIAL INSTITUTIONS, HOUSING & INSURANCE COMMITTEE (Recommended Substitute): Amends the exemption language in the bill. Authorizes service contract providers who insure all service contracts under a reimbursement insurance policy through an insurer or risk-retention group as prescribed in statute to submit annual financial statements that are certified as accurate by two or more officers of the company. Such certified statements will substitute for the annual financial statements audited by a third party. Clarifies that the bill is applicable to service contract providers of consumer goods and motor vehicle programs.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: Currently Washington is the only state that requires applicants for service contract registration to provide audited financial documents even if the benefits are completely protected by a policy of insurance that stands behind the obligation. Service contract providers are usually a subsidiary company within a large family of companies, and generally the parent is a well-recognized entity such as a manufacturer of consumer goods or motor vehicles. The applicant, however, may be a subsidiary six levels down in the hierarchy of the organization. The parent would be fully audited and have its financials publicly available on a 10(k). It is not uncommon, however, for the applicant to not have its own standalone audited financial statements. Currently, it costs well over \$10,000 to have an audited financial statement prepared for such an entity, which is only applicable to Washington State. Passing this bill would bring Washington into parity with the rest of the country relative to the registration requirements for service contract provider applicants.

Persons Testifying: PRO: Mel Sorensen, Service Contract Industry Council.