

HOUSE BILL REPORT

SHB 2776

As Passed Legislature

Title: An act relating to home heating fuel service contracts.

Brief Description: Regulating home heating fuel service contracts.

Sponsors: By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Dickerson, Kirby, Roach and McDonald).

Brief History:

Committee Activity:

Financial Institutions & Insurance: 1/24/06, 1/26/06 [DPS].

Floor Activity:

Passed House: 2/13/06, 96-2.

Passed Senate: 2/28/06, 48-0.

Passed Legislature.

Brief Summary of Substitute Bill

- Creates a new regulatory structure for home heating fuel service contracts. The structure is approximately parallel to the structure for service contracts.
- Reduces the minimum amount of the financial security deposit.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Kirby, Chair; Ericks, Vice Chair; Roach, Ranking Minority Member; Tom, Assistant Ranking Minority Member; Newhouse, O'Brien, Santos, Serben, Simpson, Strow and Williams.

Staff: Jon Hedegard (786-7127).

Background:

Insurance and insurance transactions are governed by Title 48 RCW of the Insurance Code. Among other things, this title requires: (1) that insurers meet certain financial requirements; and (2) that agents, solicitors, and brokers of insurance comply with specified licensing standards. Financial and criminal penalties may result from noncompliance.

Certain transactions that fall within the definition of insurance have been addressed by exemption from Title 48 RCW 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 1999, Chapter 48.110 RCW was created for the regulation of service contracts. A service contract provider may choose one of the following options to ensure that all obligations and liabilities are paid:

- insure their 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 Insurance Commissioner a financial security deposit; or
- maintain or have the parent company maintain a net worth or stockholder's equity of \$100 million.

Summary of Substitute Bill:

The bill creates a new chapter in Title 48 RCW dedicated to the regulation of home heating fuel service contracts. Home heating fuel service contracts are otherwise exempt from Chapter 48.110 RCW and Title 48 RCW.

Definitions are provided for the new chapter.

The chapter includes requirements that are approximately parallel to Chapter 48.110 RCW for:

- registration of home heating fuel service contract providers, including an annual renewal of the registration;
- denial, suspension, and revocation of registration;
- financial protections;
- annual reports;
- investigations and enforcement actions by the Office of the Insurance Commissioner;
- standards for reimbursement insurance contracts if such a policy is used;
- standards for the home heating fuel service contracts;
- preventing deceptive marketing;
- record-keeping;
- termination of a reimbursement policy; and
- obligations under a reimbursement insurance policy.

The financial guaranty provisions applied to home heating fuel service contracts are slightly altered from the service contract structure. The provision allowing the option of insuring all contracts under a reimbursement policy remains intact. The option of allowing the maintenance of a net worth or stockholder's equity of \$100 million is removed. The option of maintaining a reserve account and giving the Insurance Commissioner a financial security deposit is modified. The percentage of gross consideration remains the same but the minimum amount of the financial security deposit is reduced from \$25,000 to \$10,000.

Additional differences from the provisions of Chapter 48.110 RCW include:

- home heating fuel service contracts would not be subject to the Consumer Protection Act, Chapter 19.86 RCW;
- annual financial statements required for registration are not specifically required to be audited;
- the registration fee is reduced from \$250 to \$100;
- the \$20 filing fee for the annual report is eliminated; and
- maximum fines per violation are reduced from \$200,000 to \$100,000.

The act applies to home heating fuel service contracts sold or offered for sale after October 1, 2006.

The Insurance Commissioner may adopt rules to implement and administer the new chapter.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The Legislature passed the Service Contract Act in 1999. No one considered home heating fuel contracts as part of the subject of the bill. The home heating oil industry only found out last year that the Insurance Commissioner considers the law to apply to them. The home heating fuel service contract providers have difficulty in complying with the current law. The bill is a common sense solution to the problem. It allows the business to continue serving their customers. Without the bill, there may be negative impacts on the businesses and consumers. I've been in the business for 40 years and sold these contracts the entire time. No insurer in the state would be willing to pick up this business because the amount of money is so low. These contracts have been a part of the industry for decades. It provides a service to customers. There are no disputes or lawsuits regarding this service. It is an optional product. A customer can sign up or not. They can end the service if they choose to do so. If they have the product, we replace their tank if it has a problem. The product does not cover pollution. It works well with the Pollution Liability Insurance Agency (PLIA). We cover tank replacement; the PLIA covers pollution. These are small, family-owned businesses. These businesses support this bill and the PLIA bill (HB 2678). The two programs work well together. The Insurance Commissioner found out about these contracts and informed the companies that they had to come into compliance with the law. Many cannot comply with the existing law. This bill is based on the service contracts chapter. It differs in some financial provisions. The bill includes standards that can be met and allows dealers to continue to offer a cost-effective product that provides security for consumers.

(With concerns) The definition of home heating fuel includes propane dealers. The bill is addressed to situations where the homeowner owns the tank. We have no issue with how the bill addresses those situations. Propane dealers own the tanks. If there is an issue with the tank, the dealer replaces the tank. There is no need for an insurance product. The concerns

propane dealers have with the bill can be fixed with a two word amendment. If "customer owned" is added to the definition of home heating fuel service contract, we would be fine with the bill.

Testimony Against: None.

Persons Testifying: Warren Aakernk, Balland Oil Company; John Croteau, Rossoe Energy; and Tom Allen, Acme Fuel Company and Northwest Oil Heat Council.

(With concerns) Mel Sorensen, Northwest Propane Gas Association.

Persons Signed In To Testify But Not Testifying: None.