

FINAL BILL REPORT

SHB 2776

C 36 L 06

Synopsis as Enacted

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).

House Committee on Financial Institutions & Insurance
Senate Committee on Financial Institutions, Housing & Consumer Protection

Background:

Insurance and insurance transactions are governed by the Insurance Code (Code). Among other things, this Code 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 exemptions from the 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 1999, a chapter in the Code 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 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 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:

A new chapter is created in the Code dedicated to the regulation of home heating fuel service contracts. Home heating fuel service contracts are otherwise exempt from the Code and the chapter on service contracts generally.

Definitions are provided for the new chapter.

The chapter includes requirements that are approximately parallel to the chapter on service contracts 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 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 the chapter on service contracts include:

- home heating fuel service contracts would not be subject to the Consumer Protection Act;
- 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 chapter 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.

Votes on Final Passage:

House	95	3
Senate	48	0

Effective: June 7, 2006