

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2052

Chapter 112, Laws of 1999

56th Legislature
1999 Regular Session

SERVICE CONTRACT REGULATION

EFFECTIVE DATE: 7/25/99

Passed by the House March 9, 1999
Yeas 91 Nays 0

CLYDE BALLARD
**Speaker of the House of
Representatives**

FRANK CHOPP
**Speaker of the House of
Representatives**

Passed by the Senate April 12, 1999
Yeas 46 Nays 0

BRAD OWEN
President of the Senate

Approved April 23, 1999

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

We, Dean R. Foster and Timothy A. Martin, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2052** as passed by the House of Representatives and the Senate on the dates hereon set forth.

DEAN R. FOSTER
Chief Clerk

TIMOTHY A. MARTIN
Chief Clerk

FILED

April 23, 1999 - 3:30 p.m.

**Secretary of State
State of Washington**

HOUSE BILL 2052

Passed Legislature - 1999 Regular Session

State of Washington 56th Legislature 1999 Regular Session

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

Read first time 02/15/1999. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to regulating service contracts; adding a new
2 section to chapter 42.17 RCW; adding a new chapter to Title 48 RCW; and
3 prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that increasing
6 numbers of businesses are selling service contracts for repair,
7 replacement, and maintenance of appliances, computers, electronic
8 equipment, and other consumer products. There are risks that contract
9 obligors will close or otherwise be unable to fulfill their contract
10 obligations that could result in unnecessary and preventable losses to
11 citizens of this state. The legislature declares that it is necessary
12 to establish standards that will safeguard the public from possible
13 losses arising from the cessation of business of service contract
14 obligors or the mismanagement of funds paid for service contracts. The
15 purpose of this chapter is to create a legal framework within which
16 service contracts may be sold in this state and set forth requirements
17 for conducting a service contract business.

1 NEW SECTION. **Sec. 2.** (1) The following are exempt from this
2 title:

3 (a) Warranties;

4 (b) Maintenance agreements; and

5 (c) Service contracts:

6 (i) Paid for with separate and additional consideration;

7 (ii) Issued at the point of sale, or within sixty days of the
8 original purchase date of the property; and

9 (iii) On tangible property when the tangible property for which the
10 service contract is sold has a purchase price of fifty dollars or less,
11 exclusive of sales tax.

12 (2) This chapter does not apply to:

13 (a) Vehicle service contracts which are governed under chapter
14 48.96 RCW; and

15 (b) Vehicle mechanical breakdown insurance.

16 NEW SECTION. **Sec. 3.** The definitions in this section apply
17 throughout this chapter.

18 (1) "Administrator" means the person who is responsible for the
19 administration of the service contracts or the service contracts plan.

20 (2) "Commissioner" means the insurance commissioner of this state.

21 (3) "Consumer" means a person who buys any tangible personal
22 property that is distributed in commerce.

23 (4) "Maintenance agreement" means a contract of limited duration
24 that provides for scheduled maintenance only.

25 (5) "Person" means an individual, partnership, corporation,
26 incorporated or unincorporated association, joint stock company,
27 reciprocal insurer, syndicate, or any similar entity or combination of
28 entities acting in concert.

29 (6) "Premium" means the consideration paid to an insurer for a
30 reimbursement insurance policy.

31 (7) "Provider fee" means the consideration paid by a consumer for
32 a service contract.

33 (8) "Reimbursement insurance policy" means a policy of insurance
34 that is issued to a service contract provider to provide reimbursement
35 to the service contract provider or to pay on behalf of the service
36 contract provider all contractual obligations incurred by the service
37 contract provider under the terms of the insured service contracts
38 issued or sold by the service contract provider.

1 (9) "Service contract" means a contract or agreement for a
2 separately stated consideration for a specific duration to perform the
3 repair, replacement, or maintenance of property or the indemnification
4 for repair, replacement, or maintenance for operational or structural
5 failure due to a defect in materials or workmanship, or normal wear and
6 tear. Service contracts may provide for the repair, replacement, or
7 maintenance of property for damage resulting from power surges and
8 accidental damage from handling, with or without additional provision
9 for indemnity payments for incidental damages to other property
10 directly caused by the failure of the property which is the subject of
11 the service contract, provided the indemnity payment per incident does
12 not exceed the purchase price of the property that is the subject of
13 the service contract.

14 (10) "Service contract holder" or "contract holder" means a person
15 who is the purchaser or holder of a service contract.

16 (11) "Service contract provider" means a person who is
17 contractually obligated to the service contract holder under the terms
18 of the service contract.

19 (12) "Service contract seller" means the person who sells the
20 service contract to the consumer.

21 (13) "Warranty" means a warranty made solely by the manufacturer,
22 importer, or seller of property or services without consideration; that
23 is not negotiated or separated from the sale of the product and is
24 incidental to the sale of the product; and that guarantees indemnity
25 for defective parts, mechanical or electrical breakdown, labor, or
26 other remedial measures, such as repair or replacement of the property
27 or repetition of services.

28 NEW SECTION. **Sec. 4.** (1) A person shall not act as, or offer to
29 act as, or hold himself or herself out to be a service contract
30 provider in this state, nor may a service contract be sold to a
31 consumer in this state, unless the service contract provider has a
32 valid registration as a service contract provider issued by the
33 commissioner.

34 (2) Applicants to be a service contract provider shall make an
35 application to the commissioner upon a form to be furnished by the
36 commissioner. The application shall include or be accompanied by the
37 following information and documents:

1 (a) All basic organizational documents of the service contract
2 provider, including any articles of incorporation, articles of
3 association, partnership agreement, trade name certificate, trust
4 agreement, shareholder agreement, bylaws, and other applicable
5 documents, and all amendments to those documents;

6 (b) The identities of the service contract provider's executive
7 officer or officers directly responsible for the service contract
8 provider's service contract business, and, if more than fifty percent
9 of the service contract provider's gross revenue is derived from the
10 sale of service contracts, the identities of the service contract
11 provider's directors and stockholders having beneficial ownership of
12 ten percent or more of any class of securities;

13 (c) Audited annual financial statements or other financial reports
14 acceptable to the commissioner for the two most recent years which
15 prove that the applicant is solvent and any information the
16 commissioner may require in order to review the current financial
17 condition of the applicant. If the service contract provider is
18 relying on section 6(2) (a) or (c) of this act to assure the faithful
19 performance of its obligations to service contract holders, then the
20 audited financial statements of the service contract provider's parent
21 company may be substituted for the audited financial statements of the
22 service contract provider;

23 (d) An application fee of two hundred fifty dollars, which shall be
24 deposited into the insurance commissioner's regulatory account under
25 RCW 48.02.190; and

26 (e) Any other pertinent information required by the commissioner.

27 (3) The applicant shall appoint the commissioner as its attorney to
28 receive service of legal process in any action, suit, or proceeding in
29 any court. This appointment is irrevocable and shall bind the service
30 contract provider or any successor in interest, shall remain in effect
31 as long as there is in force in this state any contract or any
32 obligation arising therefrom related to residents of this state, and
33 shall be processed in accordance with RCW 48.05.210.

34 (4) The commissioner may refuse to issue a registration if the
35 commissioner determines that the service contract provider, or any
36 individual responsible for the conduct of the affairs of the service
37 contract provider under subsection (2)(b) of this section, is not
38 competent, trustworthy, financially responsible, or has had a license

1 as a service contract provider or similar license denied or revoked for
2 cause by any state.

3 (5) A registration issued under this section is valid, unless
4 surrendered, suspended, or revoked by the commissioner, or not renewed
5 for so long as the service contract provider continues in business in
6 this state and remains in compliance with this chapter. A registration
7 is subject to renewal annually on the first day of July upon
8 application of the service contract provider and payment of a fee of
9 two hundred dollars, which shall be deposited into the insurance
10 commissioner's regulatory account under RCW 48.02.190. If not so
11 renewed, the registration expires on the June 30th next preceding.

12 (6) A service contract provider shall keep current the information
13 required to be disclosed in its registration under this section by
14 reporting all material changes or additions within thirty days after
15 the end of the month in which the change or addition occurs.

16 NEW SECTION. **Sec. 5.** (1) Every registered service contract
17 provider that is assuring its faithful performance of its obligations
18 to its service contract holders by complying with section 6(2)(b) of
19 this act shall file an annual report for the preceding calendar year
20 with the commissioner on or before March 1st of each year, or within
21 any extension of time the commissioner for good cause may grant. The
22 report shall be in the form and contain those matters as the
23 commissioner prescribes and shall be verified by at least two officers
24 of the service contract provider.

25 (2) At the time of filing the report, the service contract provider
26 shall pay a filing fee of twenty dollars which shall be deposited into
27 the insurance commissioner's regulatory account under RCW 48.02.190.

28 (3) As part of any investigation by the commissioner, the
29 commissioner may require a service contract provider to file monthly
30 financial reports whenever, in the commissioner's discretion, there is
31 a need to more closely monitor the financial activities of the service
32 contract provider. Monthly financial statements shall be filed in the
33 commissioner's office no later than the twenty-fifth day of the month
34 following the month for which the financial report is being filed.
35 These monthly financial reports shall be the internal financial
36 statements of the service contract provider. The monthly financial
37 reports that are filed with the commissioner constitute information
38 that might be damaging to the service contract provider if made

1 available to its competitors, and therefore shall be kept confidential
2 by the commissioner. This information shall not be made public or be
3 subject to subpoena, other than by the commissioner and then only for
4 the purpose of enforcement actions taken by the commissioner.

5 NEW SECTION. **Sec. 6.** (1) Service contracts shall not be issued,
6 sold, or offered for sale in this state or sold to consumers in this
7 state unless the service contract provider has:

8 (a) Provided a receipt for, or other written evidence of, the
9 purchase of the service contract to the contract holder; and

10 (b) Provided a copy of the service contract to the service contract
11 holder within a reasonable period of time from the date of purchase.

12 (2) In order to assure the faithful performance of a service
13 contract provider's obligations to its service contract holders, every
14 service contract provider shall be responsible for complying with the
15 requirements of one of the following:

16 (a) Insure all service contracts under a reimbursement insurance
17 policy issued by an insurer holding a certificate of authority from the
18 commissioner;

19 (b)(i) Maintain a funded reserve account for its obligations under
20 its service contracts issued and outstanding in this state. The
21 reserves shall not be less than forty percent of the gross
22 consideration received, less claims paid, on the sale of the service
23 contract for all in-force contracts. The reserve account shall be
24 subject to examination and review by the commissioner; and

25 (ii) Place in trust with the commissioner a financial security
26 deposit, having a value of not less than five percent of the gross
27 consideration received, less claims paid, on the sale of the service
28 contract for all service contracts issued and in force, but not less
29 than twenty-five thousand dollars, consisting of one of the following:

30 (A) A surety bond issued by an insurer holding a certificate of
31 authority from the commissioner;

32 (B) Securities of the type eligible for deposit by authorized
33 insurers in this state;

34 (C) Cash;

35 (D) An evergreen letter of credit issued by a qualified financial
36 institution; or

37 (E) Another form of security prescribed by rule by the
38 commissioner; or

1 (c)(i) Maintain, or its parent company maintain, a net worth or
2 stockholder's equity of at least one hundred million dollars; and

3 (ii) Upon request, provide the commissioner with a copy of the
4 service contract provider's or the service contract provider's parent
5 company's most recent form 10-K or form 20-F filed with the securities
6 and exchange commission within the last calendar year, or if the
7 company does not file with the securities and exchange commission, a
8 copy of the service contract provider's or the service contract
9 provider's parent company's audited financial statements, which shows
10 a net worth of the service contract provider or its parent company of
11 at least one hundred million dollars. If the service contract
12 provider's parent company's form 10-K, form 20-F, or audited financial
13 statements are filed with the commissioner to meet the service contract
14 provider's financial stability requirement, then the parent company
15 shall agree to guarantee the obligations of the service contract
16 provider relating to service contracts sold by the service contract
17 provider in this state. A copy of the guarantee shall be filed with
18 the commissioner. The guarantee shall be irrevocable as long as there
19 is in force in this state any contract or any obligation arising from
20 service contracts guaranteed, unless the parent company has made
21 arrangements approved by the commissioner to satisfy its obligations
22 under the guarantee.

23 (3) Service contracts shall require the service contract provider
24 to permit the service contract holder to return the service contract
25 within twenty days of the date the service contract was mailed to the
26 service contract holder or within ten days of delivery if the service
27 contract is delivered to the service contract holder at the time of
28 sale, or within a longer time period permitted under the service
29 contract. Upon return of the service contract to the service contract
30 provider within the applicable period, if no claim has been made under
31 the service contract prior to the return to the service contract
32 provider, the service contract is void and the service contract
33 provider shall refund to the service contract holder, or credit the
34 account of the service contract holder with the full purchase price of
35 the service contract. The right to void the service contract provided
36 in this subsection is not transferable and shall apply only to the
37 original service contract purchaser. A ten percent penalty per month
38 shall be added to a refund of the purchase price that is not paid or

1 credited within thirty days after return of the service contract to the
2 service contract provider.

3 (4) Except for service contract providers, persons marketing,
4 selling, or offering to sell service contracts for providers are exempt
5 from the registration requirements of section 4 of this act.

6 (5) The marketing, sale, offering for sale, issuance, making,
7 proposing to make, and administration of service contracts by service
8 contract providers and related service contract sellers,
9 administrators, and other persons complying with this chapter are
10 exempt from the other provisions of this title, except chapter 48.04
11 RCW and as otherwise provided in this chapter.

12 NEW SECTION. **Sec. 7.** (1) Reimbursement insurance policies
13 insuring service contracts issued, sold, or offered for sale in this
14 state or sold to consumers in this state shall state that the insurer
15 that issued the reimbursement insurance policy shall reimburse or pay
16 on behalf of the service contract provider all sums the service
17 contract provider is legally obligated to pay, including but not
18 limited to the refund of the full purchase price of the service
19 contract to the service contract holder or shall provide the service
20 which the service contract provider is legally obligated to perform
21 according to the service contract provider's contractual obligations
22 under the service contracts issued or sold by the service contract
23 provider.

24 (2) The reimbursement insurance policy shall fully insure the
25 obligations of the service contract provider, rather than partially
26 insure, or insure only in the event of service contract provider
27 default.

28 (3) The reimbursement insurance policy shall state that the service
29 contract holder is entitled to apply directly to the reimbursement
30 insurance company.

31 NEW SECTION. **Sec. 8.** (1) Service contracts marketed, sold,
32 offered for sale, issued, made, proposed to be made, or administered in
33 this state or sold to residents of this state shall be written,
34 printed, or typed in clear, understandable language that is easy to
35 read, and disclose the requirements set forth in this section, as
36 applicable.

1 (2) Service contracts insured under a reimbursement insurance
2 policy under sections 6(2)(a) and 7 of this act shall not be issued,
3 sold, or offered for sale in this state or sold to residents of this
4 state unless the service contract conspicuously contains a statement in
5 substantially the following form: "Obligations of the service contract
6 provider under this service contract are insured under a service
7 contract reimbursement insurance policy." The service contract shall
8 also conspicuously state the name and address of the issuer of the
9 reimbursement policy and state that the service contract holder is
10 entitled to apply directly to the reimbursement insurance company.

11 (3) Service contracts not insured under a reimbursement insurance
12 policy under sections 6(2)(a) and 7 of this act shall contain a
13 statement in substantially the following form: "Obligations of the
14 service contract provider under this contract are backed by the full
15 faith and credit of the service contract provider."

16 (4) Service contracts shall state the name and address of the
17 service contract provider and shall identify any administrator if
18 different from the service contract provider, the service contract
19 seller, and the service contract holder to the extent that the name of
20 the service contract holder has been furnished by the service contract
21 holder. The identities of such parties are not required to be
22 preprinted on the service contract and may be added to the service
23 contract at the time of sale.

24 (5) Service contracts shall state the purchase price of the service
25 contract and the terms under which the service contract is sold. The
26 purchase price is not required to be preprinted on the service contract
27 and may be negotiated at the time of sale.

28 (6) Service contracts shall state the procedure to obtain service
29 or to file a claim, including but not limited to the procedures for
30 obtaining prior approval for repair work, the toll-free telephone
31 number if prior approval is necessary for service, and the procedure
32 for obtaining emergency repairs performed outside of normal business
33 hours or provide for twenty-four-hour telephone assistance.

34 (7) Service contracts shall state the existence of any deductible
35 amount, if applicable.

36 (8) Service contracts shall specify the merchandise and services to
37 be provided and any limitations, exceptions, or exclusions.

38 (9) Service contracts shall state any restrictions governing the
39 transferability of the service contract, if applicable.

1 (10) Service contracts shall state the terms, restrictions, or
2 conditions governing cancellation of the service contract prior to the
3 termination or expiration date of the service contract by either the
4 service contract provider or by the service contract holder, which
5 rights can be no more restrictive than provided in section 6(3) of this
6 act. The service contract provider of the service contract shall mail
7 a written notice to the service contract holder at the last known
8 address of the service contract holder contained in the records of the
9 service contract provider at least twenty-one days prior to
10 cancellation by the service contract provider. The notice shall state
11 the effective date of the cancellation and the true and actual reason
12 for the cancellation.

13 (11) Service contracts shall set forth the obligations and duties
14 of the service contract holder, including but not limited to the duty
15 to protect against any further damage and any requirement to follow
16 owner's manual instructions.

17 (12) Service contracts shall state whether or not the service
18 contract provides for or excludes consequential damages or preexisting
19 conditions.

20 (13) Service contracts shall not contain a provision which requires
21 that any civil action brought in connection with the service contract
22 must be brought in the courts of a jurisdiction other than this state.
23 Service contracts that authorize binding arbitration to resolve claims
24 or disputes may allow for arbitration proceedings to be held at a
25 location in closest proximity to the service contract holder's
26 permanent residence.

27 NEW SECTION. **Sec. 9.** (1) A service contract provider shall not
28 use in its name the words insurance, casualty, guaranty, surety,
29 mutual, or any other words descriptive of the insurance, casualty,
30 guaranty, or surety business; or a name deceptively similar to the name
31 or description of any insurance or surety corporation, or to the name
32 of any other service contract provider. This subsection does not apply
33 to a company that was using any of the prohibited language in its name
34 prior to January 1, 1999. However, a company using the prohibited
35 language in its name shall conspicuously disclose in its service
36 contracts the following statement: "This agreement is not an insurance
37 contract."

1 (2) Every service contract provider shall conduct its business in
2 its own legal name, unless the commissioner has approved the use of
3 another name.

4 (3) A service contract provider or its representative shall not in
5 its service contracts or literature make, permit, or cause to be made
6 any false or misleading statement, or deliberately omit any material
7 statement that would be considered misleading if omitted.

8 (4) A person, such as a bank, savings and loan association, lending
9 institution, manufacturer, or seller shall not require the purchase of
10 a service contract as a condition of a loan or a condition for the sale
11 of any property.

12 NEW SECTION. **Sec. 10.** (1) The service contract provider shall
13 keep accurate accounts, books, and records concerning transactions
14 regulated under this chapter.

15 (2) The service contract provider's accounts, books, and records
16 shall include the following:

17 (a) Copies of each type of service contract sold;

18 (b) The name and address of each service contract holder, to the
19 extent that the name and address have been furnished by the service
20 contract holder;

21 (c) A list of the locations where the service contracts are
22 marketed, sold, or offered for sale; and

23 (d) Written claim files that contain at least the dates, amounts,
24 and descriptions of claims related to the service contracts.

25 (3) Except as provided in subsection (5) of this section, the
26 service contract provider shall retain all records required to be
27 maintained by subsection (1) of this section for at least six years
28 after the specified coverage has expired.

29 (4) The records required under this chapter may be, but are not
30 required to be, maintained on a computer disk or other recordkeeping
31 technology. If the records are maintained in other than hard copy, the
32 records shall be capable of duplication to legible hard copy.

33 (5) A service contract provider discontinuing business in this
34 state shall maintain its records until it furnishes the commissioner
35 satisfactory proof that it has discharged all obligations to service
36 contract holders in this state.

1 NEW SECTION. **Sec. 11.** As applicable, an insurer that issued a
2 reimbursement insurance policy shall not terminate the policy until a
3 notice of termination in accordance with RCW 48.18.290 has been given
4 to the service contract provider and has been delivered to the
5 commissioner. The termination of a reimbursement insurance policy does
6 not reduce the issuer's responsibility for service contracts issued by
7 service contract providers prior to the effective date of the
8 termination.

9 NEW SECTION. **Sec. 12.** (1) Service contract providers are
10 considered to be the agent of the insurer which issued the
11 reimbursement insurance policy for purposes of obligating the insurer
12 to service contract holders in accordance with the service contract and
13 this chapter. Payment of the provider fee by the consumer to the
14 service contract seller, service contract provider, or administrator
15 constitutes payment by the consumer to the service contract provider
16 and to the insurer which issued the reimbursement insurance policy. In
17 cases where a service contract provider is acting as an administrator
18 and enlists other service contract providers, the service contract
19 provider acting as the administrator shall notify the insurer of the
20 existence and identities of the other service contract providers.

21 (2) This act does not prevent or limit the right of an insurer
22 which issued a reimbursement insurance policy to seek indemnification
23 or subrogation against a service contract provider if the issuer pays
24 or is obligated to pay the service contract holder sums that the
25 service contract provider was obligated to pay under the provisions of
26 the service contract.

27 NEW SECTION. **Sec. 13.** (1) The commissioner may conduct
28 investigations of service contract providers, administrators, service
29 contract sellers, insurers, and other persons to enforce this chapter
30 and protect service contract holders in this state. Upon request of
31 the commissioner, the service contract provider shall make all
32 accounts, books, and records concerning service contracts sold by the
33 service contract provider available to the commissioner which are
34 necessary to enable the commissioner to determine compliance or
35 noncompliance with this chapter.

36 (2) The commissioner may take actions under RCW 48.02.080 or
37 48.04.050 which are necessary or appropriate to enforce this chapter

1 and the commissioner's rules and orders, and to protect service
2 contract holders in this state.

3 NEW SECTION. **Sec. 14.** (1) The commissioner may, subject to
4 chapter 48.04 RCW, deny, suspend, or revoke the registration of a
5 service contract provider if the commissioner finds that the service
6 contract provider:

7 (a) Has violated this chapter or the commissioner's rules and
8 orders;

9 (b) Has refused to be investigated or to produce its accounts,
10 records, and files for investigation, or if any of its officers have
11 refused to give information with respect to its affairs or refused to
12 perform any other legal obligation as to an investigation, when
13 required by the commissioner;

14 (c) Has, without just cause, refused to pay proper claims or
15 perform services arising under its contracts or has, without just
16 cause, caused service contract holders to accept less than the amount
17 due them or caused service contract holders to employ attorneys or
18 bring suit against the service contract provider to secure full payment
19 or settlement of claims;

20 (d) Is affiliated with or under the same general management or
21 interlocking directorate or ownership as another service contract
22 provider which unlawfully transacts business in this state without
23 having a registration;

24 (e) At any time fails to meet any qualification for which issuance
25 of the registration could have been refused had such failure then
26 existed and been known to the commissioner;

27 (f) Has been convicted of, or has entered a plea of guilty or nolo
28 contendere to, a felony;

29 (g) Is under suspension or revocation in another state with respect
30 to its service contract business;

31 (h) Has made a material misstatement in its application for
32 registration;

33 (i) Has obtained or attempted to obtain a registration through
34 misrepresentation or fraud;

35 (j) Has, in the transaction of business under its registration,
36 used fraudulent, coercive, or dishonest practices; or

1 (k) Has failed to pay any judgment rendered against it in this
2 state regarding a service contract within sixty days after the judgment
3 has become final.

4 (2) The commissioner may, without advance notice or hearing
5 thereon, immediately suspend the registration of a service contract
6 provider if the commissioner finds that any of the following
7 circumstances exist:

8 (a) The provider is insolvent;

9 (b) A proceeding for receivership, conservatorship, rehabilitation,
10 or other delinquency proceeding regarding the service contract provider
11 has been commenced in any state; or

12 (c) The financial condition or business practices of the service
13 contract provider otherwise pose an imminent threat to the public
14 health, safety, or welfare of the residents of this state.

15 (3) If the commissioner finds that grounds exist for the suspension
16 or revocation of a registration issued under this chapter, the
17 commissioner may, in lieu of suspension or revocation, impose a fine
18 upon the service contract provider in an amount not more than two
19 thousand dollars per violation.

20 NEW SECTION. **Sec. 15.** The legislature finds that the practices
21 covered by this chapter are matters vitally affecting the public
22 interest for the purpose of applying the consumer protection act,
23 chapter 19.86 RCW. Violations of this chapter are not reasonable in
24 relation to the development and preservation of business. A violation
25 of this chapter is an unfair or deceptive act or practice in the
26 conduct of trade or commerce and an unfair method of competition, as
27 specifically contemplated by RCW 19.86.020, and is a violation of the
28 consumer protection act, chapter 19.86 RCW. Any service contract
29 holder injured as a result of a violation of a provision of this
30 chapter shall be entitled to maintain an action pursuant to chapter
31 19.86 RCW against the service contract provider and the insurer issuing
32 the applicable service contract reimbursement policy and shall be
33 entitled to all of the rights and remedies afforded by that chapter.

34 NEW SECTION. **Sec. 16.** The commissioner may adopt rules to
35 implement and administer this chapter.

1 NEW SECTION. **Sec. 17.** This chapter applies to all service
2 contracts sold or offered for sale ninety or more days after the
3 effective date of this act.

4 NEW SECTION. **Sec. 18.** A new section is added to chapter 42.17 RCW
5 to read as follows:

6 Information provided to the insurance commissioner under section
7 5(3) of this act is exempt from disclosure under this chapter.

8 NEW SECTION. **Sec. 19.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

12 NEW SECTION. **Sec. 20.** Sections 1 through 17 of this act
13 constitute a new chapter in Title 48 RCW.

Passed the House March 9, 1999.

Passed the Senate April 12, 1999.

Approved by the Governor April 23, 1999.

Filed in Office of Secretary of State April 23, 1999.