

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1036

63rd Legislature
2013 Regular Session

Passed by the House February 18, 2013
Yeas 96 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 16, 2013
Yeas 47 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1036** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 1036

Passed Legislature - 2013 Regular Session

State of Washington

63rd Legislature

2013 Regular Session

By Representatives Kirby, Ryu, and Schmick

Prefiled 01/04/13. Read first time 01/14/13. Referred to Committee on Business & Financial Services.

1 AN ACT Relating to service contracts; amending RCW 48.110.020; and
2 adding a new section to chapter 48.110 RCW.

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

4 **Sec. 1.** RCW 48.110.020 and 2011 c 171 s 104 are each amended to
5 read as follows:

6 The definitions in this section apply throughout this chapter.

7 (1) "Administrator" means the person who is responsible for the
8 administration of the service contracts, the service contracts plan, or
9 the protection product guarantees.

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

11 (3) "Consumer" means an individual who buys any tangible personal
12 property that is primarily for personal, family, or household use.

13 (4) "Home heating fuel service contract" means a contract or
14 agreement for a separately stated consideration for a specific duration
15 to perform the repair, replacement, or maintenance of a home heating
16 fuel supply system including the fuel tank and all visible pipes, caps,
17 lines, and associated parts or the indemnification for repair,
18 replacement, or maintenance for operational or structural failure due
19 to a defect in materials or workmanship, or normal wear and tear.

1 (5) "Incidental costs" means expenses specified in the guarantee
2 incurred by the protection product guarantee holder related to damages
3 to other property caused by the failure of the protection product to
4 perform as provided in the guarantee. "Incidental costs" may include,
5 without limitation, insurance policy deductibles, rental vehicle
6 charges, the difference between the actual value of the stolen vehicle
7 at the time of theft and the cost of a replacement vehicle, sales
8 taxes, registration fees, transaction fees, and mechanical inspection
9 fees. Incidental costs may be paid under the provisions of the
10 protection product guarantee in either a fixed amount specified in the
11 protection product guarantee or sales agreement, or by the use of a
12 formula itemizing specific incidental costs incurred by the protection
13 product guarantee holder to be paid.

14 (6) "Maintenance agreement" means a contract of limited duration
15 that provides for scheduled maintenance only.

16 (7) "Motor vehicle" means any vehicle subject to registration under
17 chapter 46.16A RCW.

18 (8) "Person" means an individual, partnership, corporation,
19 incorporated or unincorporated association, joint stock company,
20 reciprocal insurer, syndicate, or any similar entity or combination of
21 entities acting in concert.

22 (9) "Premium" means the consideration paid to an insurer for a
23 reimbursement insurance policy.

24 (10) "Protection product" means any product offered or sold with a
25 guarantee to repair or replace another product or pay incidental costs
26 upon the failure of the product to perform pursuant to the terms of the
27 protection product guarantee.

28 (11) "Protection product guarantee" means a written agreement by a
29 protection product guarantee provider to repair or replace another
30 product or pay incidental costs upon the failure of the protection
31 product to perform pursuant to the terms of the protection product
32 guarantee.

33 (12) "Protection product guarantee holder" means a person who is
34 the purchaser or permitted transferee of a protection product
35 guarantee.

36 (13) "Protection product guarantee provider" means a person who is
37 contractually obligated to the protection product guarantee holder

1 under the terms of the protection product guarantee. Protection
2 product guarantee provider does not include an authorized insurer
3 providing a reimbursement insurance policy.

4 (14) "Protection product seller" means the person who sells the
5 protection product to the consumer.

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

8 (16) "Reimbursement insurance policy" means a policy of insurance
9 that is issued to a service contract provider or a protection product
10 guarantee provider to provide reimbursement to the service contract
11 provider or the protection product guarantee provider or to pay on
12 behalf of the service contract provider or the protection product
13 guarantee provider all contractual obligations incurred by the service
14 contract provider or the protection product guarantee provider under
15 the terms of the insured service contracts or protection product
16 guarantees issued or sold by the service contract provider or the
17 protection product guarantee provider.

18 (17)(a) "Service contract" means a contract or agreement entered
19 into at any time for consideration over and above the lease or purchase
20 price of the property for ((a)) any specific duration to perform the
21 repair, replacement, or maintenance of property or the indemnification
22 for repair, replacement, or maintenance for operational or structural
23 failure due to a defect in materials or workmanship, or normal wear and
24 tear. Service contracts may provide for the repair, replacement, or
25 maintenance of property for damage resulting from power surges and
26 accidental damage from handling, with or without additional provision
27 for incidental payment of indemnity under limited circumstances,
28 including towing, rental, emergency road services, or other expenses
29 relating to the failure of the product or of a component part thereof.

30 (b) "Service contract" also includes a contract or agreement sold
31 for separately stated consideration for a specific duration to perform
32 the repair or replacement of tires and/or wheels damaged as a result of
33 coming into contact with road hazards including but not limited to
34 potholes, rocks, wood debris, metal parts, glass, plastic, curbs, or
35 composite scraps. However, a contract or agreement meeting the
36 definition under this subsection (17)(b) in which the party obligated
37 to perform is either a tire or wheel manufacturer or a motor vehicle
38 manufacturer is exempt from the requirements of this chapter.

1 (18) "Service contract holder" or "contract holder" means a person
2 who is the purchaser or holder of a service contract.

3 (19) "Service contract provider" means a person who is
4 contractually obligated to the service contract holder under the terms
5 of the service contract.

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

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

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.110 RCW
16 to read as follows:

17 This chapter does not prohibit a service contract provider from
18 covering, in whole or in part, residential water, sewer, utilities, or
19 similar systems with or without coverage of appliances or from sharing
20 contract revenue with local governments or other third parties for
21 endorsements and marketing services.

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