

HOUSE BILL REPORT

HB 2886

As Reported By House Committee On:

Financial Institutions & Insurance

Title: An act relating to service contracts.

Brief Description: Exempting certain service contracts from regulation.

Revised for 1st Substitute: Making regulation of service contracts applicable to service contracts on consumer purchases only.

Sponsors: Representatives Barlean, Keiser, Benson and Hatfield.

Brief History:

Committee Activity:

Financial Institutions & Insurance: 2/1/00, 2/4/00 [DPS].

Brief Summary of Substitute Bill

- The laws regulating service contracts apply to service contracts related to consumer purchases only.

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 Benson, Republican Co-Chair; Hatfield, Democratic Co-Chair; Bush, Republican Vice Chair; McIntire, Democratic Vice Chair; Barlean; Cairnes; DeBolt; Keiser; Quall; Santos and Talcott.

Minority Report: Do not pass. Signed by 1 member: Representative Sullivan.

Staff: Charlie Gavigan (786-7340).

Background:

Many retailers and others sell service contracts covering the personal property being sold. Service contracts are agreements to repair, replace, or maintain merchandise for a given period of time. Service contracts offer protections in addition to any

guarantees that are offered under the warranties provided by the manufacturers, importers, or sellers of merchandise.

In 1999 the Legislature passed a law regulating service contracts. Persons selling service contracts in Washington are required to first register with the Insurance Commissioner. Service contract providers must give consumers a written receipt and a copy of the service contract. The service contract must be written in plain language, must contain certain disclosures, must describe the process for obtaining service and filing a claim, and must state the consumer's duties under the contract. The contract cannot require out-of-state adjudication. Consumers are allowed to return service contracts for a full refund within 20 days of the date the service contract was mailed to them, within 10 days of delivery, or within a longer period of time as specified in the service contract. If a claim has been made on the service contract within that period, the contract may not be returned. If the purchase price is not remitted to the consumer within 30 days of the return of the service contract, the service contract provider must pay the consumer a 10 percent penalty per month until the money is refunded.

In addition, service contract providers must ensure the reliability of the contracts they sell by doing one of the following: (1) insuring the contracts under reimbursement insurance policies; (2) maintaining a reserve account of at least 40 percent of the gross receipts of service contract sales and depositing financial security with the Insurance Commissioner; or (3) maintaining a net worth or stockholders' equity of \$1,000,000, and upon request, providing the Insurance Commissioner with a copy of its most recent Securities and Exchange Commission filings.

Summary of Substitute Bill:

The laws regulating service contracts apply to service contracts related to consumer purchases only. A consumer is an individual purchasing a product primarily for personal, household, or family use.

Substitute Bill Compared to Original Bill: The substitute bill makes regulation of service contracts applicable to service contracts on consumer purchases only, rather than also covering service contracts on purchases under \$15,000 by businesses.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Service contracts on sales of large products should not be regulated. There are many differences in a retail service contract and one on a purchase of a large item between businesses. Caterpillar and Boeing products should not be covered by a law designed for consumer retail transactions.

Testimony Against: This law was intended to cover service contracts on purchases by businesses as well as consumers. It might make sense to exclude service contracts on very large products sold by large businesses, but it should apply to purchases by small businesses.

Testified: (In support) Mark Triplett, Northwest Caterpillar Dealers.

(Opposed) Owen Clarke, Office of the Attorney General; and Jim Tompkins, Office of the Insurance Commissioner.