

SENATE BILL REPORT

SHB 2776

As Reported By Senate Committee On:
Financial Institutions, Housing & Consumer Protection, February 22, 2006

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

Brief Description: Regulating home heating fuel service contracts.

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

Brief History: Passed House: 2/14/06, 95-3.

Committee Activity: Financial Institutions, Housing & Consumer Protection: 2/22/06 [DP].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & CONSUMER PROTECTION

Majority Report: Do pass.

Signed by Senators Fairley, Chair; Berkey, Vice Chair; Benson, Brandland, Finkbeiner, Franklin, Keiser, Schmidt and Spanel.

Staff: Jennifer Arnold (786-7471)

Background: Insurance and insurance transactions are governed by Title 48 RCW, the Insurance Code. Among other things, the Insurance 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.

In general, service contracts are contracts for the repair, replacement, and maintenance of consumer products. In 1999, legislation was created that regulates service contracts. Under current statute, 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.

There are concerns that the existing statutory provisions in regards to the regulation of service contracts between home heating fuel providers and homeowners are more burdensome than necessary. Therefore, it is believed that standards separate from the existing provisions governing service contracts in general need to be created; separate provisions are necessary to deal with home heating fuel providers explicitly in order to safeguard homeowners from the

possible losses that could arise in the event the entity providing the contract goes out of business or mismanages funds.

Summary of Bill: A new chapter in the Insurance Code is created, which deals exclusively with the regulation of home heating fuel service contracts. A "home heating fuel service contract" is statutorily defined as a contract to perform the repair, replacement, or maintenance of a home heating fuel supply system, including the fuel tank and all visible pipes, caps, lines, and associated parts. Home heating fuel service contracts are otherwise exempt from the Insurance Code.

The new chapter on home heating fuel service contracts is similar to existing statutes regulating service contracts in general and includes, among other requirements, the following provisions:

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

The financial guaranty provisions applied to home heating fuel service contracts are slightly altered from existing statutes on service contracts. 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 OIC 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 between the requirements for home heating fuel service contracts and existing statutes regarding service contracts in general 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.

This act applies to home heating fuel service contracts sold, or offered for sale, after October 1, 2006. The OIC may adopt rules to implement and administer the new chapter.

This act is only applicable to contracts for home heating fuel supply systems that are customer-owned.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Testimony For: This bill is intended to protect the consumer, while allowing them affordable replacement contracts. It is directed towards small businesses that have had a long-standing presence in the community. The financial security deposit provisions of the bill are sufficient, particularly because the deposit is in addition to other provisions that require that 40 percent of the contract amounts are maintained in reserve as well. Requiring a deposit amount of \$25,000 is too high for small businesses. This type of contract allows a homeowner to get up and running; without this bill these businesses are not going to be able to offer this service to their customers. They are unable to find reinsurance companies that can offer this service for reasonable prices with similar coverage, in which event, homeowners could be forced to pay significantly higher amounts for tank replacements.

Testimony Against: None.

Testimony Other: The financial security deposit requirement is too low; it should be increased to \$25,000 in order to be sufficient.

Who Testified: PRO: Representative Dickerson, prime sponsor; Charlie Brown, Pacific N. W. Oil Heat Council; Tom Allen, Acme Fuel Company; Jack Croteau, Rossoe Energy.

OTHER: Jim Tompkins, Office of the Insurance Commissioner.