
HOUSE BILL 2776

State of Washington

59th Legislature

2006 Regular Session

By Representatives Dickerson, Kirby, Roach and McDonald

Read first time 01/13/2006. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to home heating fuel service contracts; amending
2 RCW 48.110.015 and 48.110.020; adding a new chapter to Title 48 RCW;
3 and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that certain service
6 contracts involving providers of home heating fuel and homeowners are
7 in the public interest. The legislature further finds that the
8 existing statutory provisions regulating service contracts are more
9 burdensome than is necessary to safeguard homeowners from the risk that
10 a contract obligor will close or be unable to fulfill their contract
11 obligations. The legislature declares that it is necessary to
12 establish separate standards that will safeguard certain homeowners
13 from possible losses arising from the cessation of business of a home
14 heating fuel company or the mismanagement of funds paid for home
15 heating fuel service contracts. The purpose of this chapter is to
16 create a legal framework within which home heating fuel service
17 contracts may be sold in this state and set forth requirements for
18 conducting a service contract business.

1 NEW SECTION. **Sec. 2.** The definitions in this section apply
2 throughout this chapter unless the context clearly requires otherwise.

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

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

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

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

15 (5) "Person" means an individual, partnership, corporation,
16 incorporated or unincorporated association, joint stock company,
17 reciprocal insurer, syndicate, or any similar entity or combination of
18 entities acting in concert.

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

21 (7) "Provider fee" means the consideration paid by a consumer for
22 a home heating fuel service contract.

23 (8) "Reimbursement insurance policy" means a policy of insurance
24 that is issued to a service contract provider to provide reimbursement
25 to the service contract provider or to pay on behalf of the service
26 contract provider all contractual obligations incurred by the service
27 contract provider under the terms of the insured service contracts
28 issued or sold by the service contract provider.

29 (9) "Home heating fuel service contract holder" or "contract
30 holder" means a person who is the purchaser or holder of a home heating
31 fuel service contract.

32 (10) "Home heating fuel service contract provider" or "contract
33 provider" means a person who is contractually obligated to the home
34 heating fuel service contract holder under the terms of the service
35 contract.

36 (11) "Home heating fuel service contract seller" means the person
37 who sells the home heating fuel service contract to the consumer.

1 (12) "Warranty" means a warranty made solely by the manufacturer,
2 importer, or seller of property or services without consideration; that
3 is not negotiated or separated from the sale of the product and is
4 incidental to the sale of the product; and that guarantees indemnity
5 for defective parts, mechanical or electrical breakdown, labor, or
6 other remedial measures, such as repair or replacement of the property
7 or repetition of services.

8 NEW SECTION. **Sec. 3.** (1) A person shall not act as, or offer to
9 act as, or hold himself or herself out to be a home heating fuel
10 service contract provider in this state, nor may a home heating fuel
11 service contract be sold to a consumer in this state, unless the
12 contract provider has a valid registration as a home heating fuel
13 service contract provider issued by the commissioner.

14 (2) Applicants to be a home heating fuel service contract provider
15 shall make an application to the commissioner upon a form to be
16 furnished by the commissioner. The application must include or be
17 accompanied by the following information and documents:

18 (a) All basic organizational documents of the home heating fuel
19 service contract provider, including any articles of incorporation,
20 articles of association, partnership agreement, trade name certificate,
21 trust agreement, shareholder agreement, bylaws, and other applicable
22 documents, and all amendments to those documents;

23 (b) The identities of the contract provider's executive officer or
24 officers directly responsible for the contract provider's home heating
25 fuel service contract business;

26 (c) Annual financial statements or other financial reports
27 acceptable to the commissioner for the two most recent years which
28 prove that the applicant is solvent and any information the
29 commissioner may require in order to review the current financial
30 condition of the applicant;

31 (d) An application fee of one hundred dollars, which must be
32 deposited into the general fund; and

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

34 (3) The commissioner may refuse to issue a registration if the
35 commissioner determines that the home heating fuel service contract
36 provider, or any individual responsible for the conduct of the affairs

1 of the contract provider under subsection (2)(b) of this section, is
2 not competent, trustworthy, or financially responsible.

3 (4) 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 July 1st upon application of the home
8 heating fuel service contract provider and payment of a fee of twenty-
9 five dollars, which must be deposited into the insurance commissioner's
10 regulatory account under RCW 48.02.190. If not so renewed, the
11 registration expires on July 31st of that year.

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

17 NEW SECTION. **Sec. 4.** (1) Every registered home heating fuel
18 service contract provider that is assuring its faithful performance of
19 its obligations to its contract holders by complying with section
20 5(2)(b) of this act shall file an annual report for the preceding
21 calendar year with the commissioner on or before March 1st of each
22 year, or within any extension of time the commissioner for good cause
23 may grant. The report must be in the form and contain those matters as
24 the commissioner prescribes and must be verified by at least two
25 officers of the home heating fuel service contract provider.

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

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

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

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

11 (b) Provided a copy of the home heating fuel service contract to
12 the service contract holder within a reasonable period of time from the
13 date of purchase.

14 (2) In order to assure the faithful performance of a home heating
15 fuel service contract provider's obligations to its contract holders,
16 every home heating fuel service contract provider is responsible for
17 complying with the requirements of one of the following:

18 (a) Insure all home heating fuel service contracts under a
19 reimbursement insurance policy issued by an insurer holding a
20 certificate of authority from the commissioner; or

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

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

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

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

37 (C) Cash;

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

3 (E) Another form of security prescribed by rule by the
4 commissioner;

5 (3) Home heating fuel service contracts must require the contract
6 provider to permit the contract holder to return the home heating fuel
7 service contract within thirty days of the date the home heating fuel
8 service contract was delivered to the contract holder, or within a
9 longer time period permitted under the home heating fuel service
10 contract. Upon return of the home heating fuel service contract to the
11 contract provider within the applicable period, if no claim has been
12 made under the home heating fuel service contract prior to the return
13 to the contract provider, the home heating fuel service contract is
14 void and the contract provider shall refund to the contract holder, or
15 credit the account of the contract holder with the full purchase price
16 of the home heating fuel service contract. The right to void the home
17 heating fuel service contract provided in this subsection is not
18 transferable and applies only to the original contract purchaser. A
19 ten percent penalty per month must be added to a refund of the purchase
20 price that is not paid or credited within thirty days after return of
21 the home heating fuel service contract to the contract provider.

22 (4) Except for home heating fuel service contract providers,
23 persons marketing, selling, or offering to sell home heating service
24 contracts for providers are exempt from the registration requirements
25 of this chapter.

26 (5) The marketing, sale, offering for sale, issuance, making,
27 proposing to make, and administration of home heating fuel service
28 contracts by contract providers and related contract sellers,
29 administrators, and other persons complying with this chapter are
30 exempt from the other provisions of this title, except chapter 48.04
31 RCW and as otherwise provided in this chapter.

32 NEW SECTION. **Sec. 6.** (1) Reimbursement insurance policies
33 insuring home heating fuel service contracts issued, sold, or offered
34 for sale in this state or sold to consumers in this state must state
35 that the insurer that issued the reimbursement insurance policy shall
36 reimburse or pay on behalf of the contract provider all sums the
37 contract provider is legally obligated to pay, including but not

1 limited to the refund of the full purchase price of the contract to the
2 contract holder or shall provide the service which the contract
3 provider is legally obligated to perform according to the contract
4 provider's contractual obligations under the home heating fuel service
5 contracts issued or sold by the contract provider.

6 (2) The reimbursement insurance policy must fully insure the
7 obligations of the contract provider, rather than partially insure, or
8 insure only in the event of contract provider default.

9 (3) The reimbursement insurance policy must state that the contract
10 holder is entitled to apply directly to the reimbursement insurance
11 company.

12 NEW SECTION. **Sec. 7.** (1) Home heating fuel service contracts
13 marketed, sold, offered for sale, issued, made, proposed to be made, or
14 administered in this state or sold to residents of this state must be
15 written, printed, or typed in clear, understandable language that is
16 easy to read, and disclose the requirements set forth in this section,
17 as applicable.

18 (2) Home heating fuel service contracts insured under a
19 reimbursement insurance policy must not be issued, sold, or offered for
20 sale in this state or sold to residents of this state unless the home
21 heating fuel service contract conspicuously contains a statement in
22 substantially the following form: "Obligations of the home heating
23 fuel service contract provider under this contract are insured under a
24 contract reimbursement insurance policy." The home heating fuel
25 service contract must also conspicuously state the name and address of
26 the issuer of the reimbursement insurance policy and state that the
27 contract holder is entitled to apply directly to the reimbursement
28 insurance company.

29 (3) Service contracts not insured under a reimbursement insurance
30 policy must contain a statement in substantially the following form:
31 "Obligations of the home heating fuel service contract provider under
32 this contract are backed by the full faith and credit of the home
33 heating fuel service contract provider."

34 (4) Home heating fuel service contracts must state the name and
35 address of the contract provider and must identify any administrator if
36 different from the contract provider, the contract seller, and the
37 contract holder to the extent that the name of the contract holder has

1 been furnished by the contract holder. The identities of the parties
2 are not required to be preprinted on the home heating fuel service
3 contract and may be added to the home heating fuel service contract at
4 the time of sale.

5 (5) Home heating fuel service contracts must state the purchase
6 price of the contract and the terms under which the home heating fuel
7 service contract is sold. The purchase price is not required to be
8 preprinted on the home heating fuel service contract and may be
9 negotiated at the time of sale.

10 (6) Home heating fuel service contracts must state the procedure to
11 obtain service or to file a claim, including but not limited to the
12 procedures for obtaining prior approval for repair work, the toll-free
13 telephone number if prior approval is necessary for service, and the
14 procedure for obtaining emergency repairs performed outside of normal
15 business hours or provide for twenty-four hour telephone assistance.

16 (7) Home heating fuel service contracts must state the existence of
17 any deductible amount, if applicable.

18 (8) Home heating fuel service contracts must specify the
19 merchandise and services to be provided and any limitations,
20 exceptions, or exclusions.

21 (9) Home heating fuel service contracts must state any restrictions
22 governing the transferability of the service contract, if applicable.

23 (10) Home heating fuel service contracts must state the terms,
24 restrictions, or conditions governing cancellation of the home heating
25 fuel service contract prior to the termination or expiration date of
26 the home heating fuel service contract by either the contract provider
27 or by the contract holder, which rights can be no more restrictive than
28 provided in section 5 of this act. The contract provider of the home
29 heating fuel service contract shall mail a written notice to the
30 contract holder at the last known address of the contract holder
31 contained in the records of the contract provider at least twenty-one
32 days prior to cancellation by the contract provider. The notice must
33 state the effective date of the cancellation and the true and actual
34 reason for the cancellation.

35 (11) Home heating fuel service contracts must set forth the
36 obligations and duties of the contract holder, including but not
37 limited to the duty to protect against any further damage and any
38 requirement to follow owner's manual instructions.

1 (12) Home heating fuel service contracts must state whether or not
2 the home heating fuel service contract provides for or excludes
3 consequential damages or preexisting conditions.

4 (13) Home heating fuel service contracts must not contain a
5 provision that requires that any civil action brought in connection
6 with the home heating fuel service contract must be brought in the
7 courts of a jurisdiction other than this state. Home heating service
8 contracts that authorize binding arbitration to resolve claims or
9 disputes may allow for arbitration proceedings to be held at a location
10 in closest proximity to the contract holder's permanent residence.

11 NEW SECTION. **Sec. 8.** (1) A home heating fuel service contract
12 provider shall not use in its name the words insurance, casualty,
13 guaranty, surety, mutual, or any other words descriptive of the
14 insurance, casualty, guaranty, or surety business; or a name
15 deceptively similar to the name or description of any insurance or
16 surety corporation, or to the name of any other home heating fuel
17 service contract provider. This subsection does not apply to a company
18 that was using any of the prohibited language in its name prior to the
19 effective date of this section. However, a company using the
20 prohibited language in its name shall conspicuously disclose in its
21 home heating fuel service contracts the following statement: "This
22 agreement is not an insurance contract."

23 (2) Every home heating fuel service contract provider shall conduct
24 its business in its own legal name, unless the commissioner has
25 approved the use of another name.

26 (3) A home heating fuel service contract provider or its
27 representative shall not in its contracts or literature make, permit,
28 or cause to be made any false or misleading statement, or deliberately
29 omit any material statement that would be considered misleading if
30 omitted.

31 (4) A person, such as a bank, savings and loan association, lending
32 institution, manufacturer, or seller shall not require the purchase of
33 a home heating fuel service contract as a condition of a loan or a
34 condition for the sale of any property.

35 NEW SECTION. **Sec. 9.** (1) The home heating fuel service contract

1 provider shall keep accurate accounts, books, and records concerning
2 transactions regulated under this chapter.

3 (2) The contract provider's accounts, books, and records must
4 include the following:

5 (a) Copies of each type of home heating fuel service contract sold;

6 (b) The name and address of each contract holder, to the extent
7 that the name and address have been furnished by the contract holder;
8 and

9 (c) Written claim files that contain at least the dates, amounts,
10 and descriptions of claims related to the service contracts.

11 (3) The records required under this chapter may be, but are not
12 required to be, maintained on a computer disk or other recordkeeping
13 technology. If the records are maintained in other than hard copy, the
14 records must be capable of duplication to legible hard copy.

15 (4) A home heating fuel service contract provider discontinuing
16 business in this state shall maintain its records until it furnishes
17 the commissioner satisfactory proof that it has discharged all
18 obligations to service contract holders in this state.

19 NEW SECTION. **Sec. 10.** As applicable, an insurer that issued a
20 reimbursement insurance policy shall not terminate the policy until a
21 notice of termination in accordance with RCW 48.18.290 has been given
22 to the home heating fuel service contract provider and has been
23 delivered to the commissioner. The termination of a reimbursement
24 insurance policy does not reduce the issuer's responsibility for home
25 heating fuel service contracts issued by contract providers prior to
26 the effective date of the termination.

27 NEW SECTION. **Sec. 11.** (1) Home heating fuel service contract
28 providers are the agent of the insurer that issued the reimbursement
29 insurance policy for purposes of obligating the insurer to contract
30 holders in accordance with the home heating fuel service contract and
31 this chapter. Payment of the provider fee by the consumer to the home
32 heating fuel service contract seller, contract provider, or
33 administrator constitutes payment by the consumer to the home heating
34 fuel service contract provider and to the insurer that issued the
35 reimbursement insurance policy. In cases when a contract provider is

1 acting as an administrator and enlists other contract providers, the
2 contract provider acting as the administrator shall notify the insurer
3 of the existence and identities of the other contract providers.

4 (2) This chapter does not prevent or limit the right of an insurer
5 that issued a reimbursement insurance policy to seek indemnification or
6 subrogation against a home heating fuel service contract provider if
7 the issuer pays or is obligated to pay the contract holder sums that
8 the contract provider was obligated to pay under the provisions of the
9 home heating fuel service contract.

10 NEW SECTION. **Sec. 12.** (1) The commissioner may conduct
11 investigations of home heating fuel service contract providers,
12 administrators, home heating fuel service contract sellers, insurers,
13 and other persons to enforce this chapter and protect home heating fuel
14 service contract holders in this state. Upon request of the
15 commissioner, the contract provider shall make all accounts, books, and
16 records concerning home heating fuel service contracts sold by the
17 contract provider available to the commissioner that are necessary to
18 enable the commissioner to determine compliance or noncompliance with
19 this chapter.

20 (2) The commissioner may take actions under RCW 48.02.080 or
21 48.04.050 that are necessary or appropriate to enforce this chapter and
22 the commissioner's rules and orders, and to protect home heating fuel
23 service contract holders in this state.

24 NEW SECTION. **Sec. 13.** (1) The commissioner may, subject to
25 chapter 48.04 RCW, deny, suspend, or revoke the registration of a home
26 heating fuel service contract provider if the commissioner finds that
27 the contract provider:

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

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

35 (c) Has, without just cause, refused to pay proper claims or
36 perform services arising under its contracts or has, without just

1 cause, caused home heating fuel service contract holders to accept less
2 than the amount due them or caused home heating fuel service contract
3 holders to employ attorneys or bring suit against the contract provider
4 to secure full payment or settlement of claims;

5 (d) Is affiliated with or under the same general management or
6 interlocking directorate or ownership as another home heating fuel
7 service contract provider that unlawfully transacts business in this
8 state without having a registration;

9 (e) At any time fails to meet any qualification for which issuance
10 of the registration could have been refused had that failure then
11 existed and been known to the commissioner;

12 (f) Is under suspension or revocation in another state with respect
13 to its home heating fuel service contract business;

14 (g) Has made a material misstatement in its application for
15 registration;

16 (h) Has obtained or attempted to obtain a registration through
17 misrepresentation or fraud;

18 (i) Has, in the transaction of business under its registration,
19 used fraudulent, coercive, or dishonest practices;

20 (j) Has failed to pay any judgment rendered against it in this
21 state regarding a home heating fuel service contract within sixty days
22 after the judgment has become final; or

23 (k) Has been convicted of, or has entered a plea of guilty or nolo
24 contendere to, a property or finance-related felony.

25 (2) The commissioner may, without advance notice or hearing
26 thereon, immediately suspend the registration of a home heating fuel
27 service contract provider if the commissioner finds that any of the
28 following circumstances exist:

29 (a) The provider is insolvent;

30 (b) A proceeding for receivership, conservatorship, rehabilitation,
31 or other delinquency proceeding regarding the home heating fuel service
32 contract provider has been commenced in any state; or

33 (c) The financial condition or business practices of the home
34 heating fuel service contract provider otherwise pose an imminent
35 threat to the public health, safety, or welfare of the residents of
36 this state.

37 (3) If the commissioner finds that grounds exist for the suspension
38 or revocation of a registration issued under this chapter, the

1 commissioner may, in lieu of suspension or revocation, impose a fine
2 upon the home heating fuel service contract provider in an amount not
3 more than one thousand dollars per violation.

4 NEW SECTION. **Sec. 14.** The commissioner may adopt rules to
5 implement and administer this chapter.

6 NEW SECTION. **Sec. 15.** This chapter applies to all home heating
7 fuel service contracts sold or offered for sale after October 1, 2006.

8 **Sec. 16.** RCW 48.110.015 and 2000 c 208 s 1 are each amended to
9 read as follows:

- 10 (1) The following are exempt from this title:
- 11 (a) Warranties;
 - 12 (b) Maintenance agreements; and
 - 13 (c) Service contracts:
 - 14 (i) Paid for with separate and additional consideration;
 - 15 (ii) Issued at the point of sale, or within sixty days of the
 - 16 original purchase date of the property; and
 - 17 (iii) On tangible property when the tangible property for which the
 - 18 service contract is sold has a purchase price of fifty dollars or less,
 - 19 exclusive of sales tax.
- 20 (2) This chapter does not apply to:
- 21 (a) Vehicle service contracts which are governed under chapter
 - 22 48.96 RCW;
 - 23 (b) Vehicle mechanical breakdown insurance; (~~and~~)
 - 24 (c) Service contracts on tangible personal property purchased by
 - 25 persons who are not consumers; and
 - 26 (d) Home heating fuel service contracts offered by home heating
 - 27 energy providers.

28 **Sec. 17.** RCW 48.110.020 and 2000 c 208 s 2 are each amended to
29 read as follows:

30 The definitions in this section apply throughout this chapter.

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

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

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

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

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

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

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

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

19 (9) "Service contract" means a contract or agreement for a
20 separately stated consideration for a 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 indemnity payments for incidental damages to other property
28 directly caused by the failure of the property which is the subject of
29 the service contract, provided the indemnity payment per incident does
30 not exceed the purchase price of the property that is the subject of
31 the service contract.

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

34 (11) "Service contract provider" means a person who is
35 contractually obligated to the service contract holder under the terms
36 of the service contract.

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

1 (13) "Warranty" means a warranty made solely by the manufacturer,
2 importer, or seller of property or services without consideration; that
3 is not negotiated or separated from the sale of the product and is
4 incidental to the sale of the product; and that guarantees indemnity
5 for defective parts, mechanical or electrical breakdown, labor, or
6 other remedial measures, such as repair or replacement of the property
7 or repetition of services.

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

15 NEW SECTION. Sec. 18. If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected.

19 NEW SECTION. Sec. 19. Sections 1 through 15 and 18 of this act
20 constitute a new chapter in Title 48 RCW.

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