

SENATE BILL REPORT

HB 1036

As of March 28, 2013

Title: An act relating to service contracts.

Brief Description: Regulating service contracts.

Sponsors: Representatives Kirby, Ryu and Schmick.

Brief History: Passed House: 2/18/13, 96-0.

Committee Activity: Commerce & Labor: 3/27/13.

SENATE COMMITTEE ON COMMERCE & LABOR

Staff: Edith Rice (786-7444)

Background: Insurance and insurance transactions are governed by the Insurance Code (Code). Among other things, the Code requires that: (1) insurers meet certain financial requirements; and (2) agents, solicitors, and brokers of insurance comply with specified licensing standards. Financial and criminal penalties may result from noncompliance.

Certain transactions that fall within the definition of insurance are addressed by exemptions from the Code or the creation of a specific regulatory structure. Entities regulated under these chapters may not be required to comply with the same capitalization and reserve requirements, reporting and solvency oversight, and claims handling practices as are required of an insurer selling a traditional insurance product. Persons regulated under these chapters may not need to be licensed or have the same degree of training. Service contracts are one of the types of products that are regulated less stringently than insurance products under the Code.

A service contract is a contract for separate consideration for a specific duration to:

- repair, replace, or maintain property; or
- indemnify for the repair, replacement, or maintenance of property.

Registration. A service contract provider must register with the Insurance Commissioner (Commissioner). Application procedures, requirements, and fees are set forth. The Commissioner may suspend or revoke the registration of a service contract provider for failure to comply with the specific requirements.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Persons selling and marketing service contracts are not required to register with or be licensed by the Commissioner unless they are service contract providers.

Financial Responsibility for Service Contract Providers. A service contract provider may ensure that all obligations and liabilities are paid by choosing one of the following options :

- insure its 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 Commissioner a financial security deposit;
- use a risk-retention group to insure the contracts of a service contract with a reimbursement insurer policy; or
- maintain or have the parent company maintain a net worth or stockholder's equity of \$100 million.

Recordkeeping. A service contract provider must keep accurate accounts and records including the following:

- the name and address of the person who purchased a protection product;
- a list of locations where the service contract is sold or marketed; and
- written claims files with the dates, amounts, and descriptions of claims related to service contracts.

Investigations and Enforcement. The Commissioner may investigate a service contract provider. Upon the Commissioner's request, a service contract provider must make the books, accounts, and records available to the Commissioner. The Commissioner may take actions to enforce the chapter and the Commissioner's rules and orders. A violation of the service contract laws is a violation of the Consumer Protection Act. A purchaser of a service contract may bring suit for a violation.

Summary of Bill: The definition of service contract is modified to include a contract of any duration entered into at or after the sale or lease of the subject property.

A service contract provider is not prohibited from covering residential water, sewer, utilities, or similar systems or from sharing contract revenue with local governments or other third parties for endorsements and marketing services.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: The bill from last year created some concerns and they were worked out with this bill. Stakeholders were involved. This will cover water and sewer lines to homes, which the homeowner would be responsible for. These are service contracts for residential water and sewer, and are permitted in all the states except California and Washington. This will solve the problem of not meeting the current definition of a service contract.

Persons Testifying: PRO: Jim King, WA State HVACR Assn., Ida Zodrow, Utility Service Partners.