

SENATE BILL REPORT

SHB 2135

As Reported by Senate Committee On:
Financial Institutions, Housing & Insurance, February 27, 2014

Title: An act relating to the regulation of service contracts and protection product guarantees.

Brief Description: Addressing the regulation of service contracts and protection product guarantees.

Sponsors: House Committee on Business & Financial Services (originally sponsored by Representatives Parker, Stanford and Kirby).

Brief History: Passed House: 2/13/14, 98-0.

Committee Activity: Financial Institutions, Housing & Insurance: 2/25/14, 2/27/14 [DPA].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Majority Report: Do pass as amended.

Signed by Senators Angel, Co-Chair; Hobbs, Co-Chair; Benton, Vice Co-Chair; Mullet, Vice Co-Chair; Fain, Hatfield, Nelson and Roach.

Staff: Edward Redmond (786-7471)

Background: A protection product is any product that is offered or sold with a guarantee to repair or replace another product or pay the incidental costs upon the failure of the product to perform as contracted. A protection product guarantee is a written agreement by the protection product guarantee provider to repair or replace another product or pay incidental cost upon the failure of the protection product to perform pursuant to its terms. Protection products are regulated by the Office of Insurance Commissioner (OIC).

A service contract is a contract for separate consideration for any specific duration to repair, replace, or maintain property; or indemnify for the repair, replacement, or maintenance of property. The company that is obliged to the customer under the service contract is referred to as the service contract provider. Service contracts are also regulated by OIC.

Registration. Both protection product guarantee providers and service contract providers must register with the Insurance Commissioner (Commissioner). Application procedures, requirements, and fees are set forth. The Commissioner may suspend or revoke the

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registration of a protection product guarantee provider or service contract provider for failure to comply with the specific requirements.

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

Financial Responsibility. A protection product guarantee provider or service contract provider may ensure that all obligations and liabilities are paid by choosing one of the following options where applicable:

- insure its protection product or 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 protection products or service contracts 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 protection product guarantee provider or service contract provider must keep accurate accounts and records including the following:

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

Investigations and Enforcement. The Commissioner may investigate a protection product guarantee provider or service contract provider. Upon the Commissioner's request, such people 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 protection product or service contract laws is a violation of the Consumer Protection Act. A purchaser of a protection product or service contract may bring suit for a violation.

Summary of Bill (Recommended Amendments): The definition of protection product is modified to mean any protective, chemical, substance, device, or system offered or sold with a guarantee to repair or replace another product or pay incidental costs upon the failure of the product to perform pursuant to the terms of the protection product guarantee. The definition explicitly excludes fuel additives, oil additives, or other chemical products applied to the engine, transmission, or fuel system of a motor vehicle. Incidental cost reimbursement must be tied to the purchase of a product that makes the specified loss or damage less likely to occur.

A new definition is added. Road hazard is defined as a hazard that is encountered while driving a motor vehicle and may include, but is not limited to, potholes, rocks, wood debris, metal parts, glass, plastic, curbs, or composite scraps.

The definition of service contract is amended to permit additional contracted services including (1) the painless removal of dents from a vehicle, (2) repair or replacement of windshields from damages caused by road hazards, (3) the replacement of a motor vehicle key or key fob, (4) services provided under a protection product guarantee, and (5) other services provided by rule of OIC.

Service contracts do not include coverage for repair or replacement of interior surfaces, exterior paint, or the finish of a vehicle. Such damages, however, may be covered through the sale of a protection product. Service contracts also do not include coverage for fuel additives, oil additives, or other chemical products applied to the engine, transmission, or fuel system of a motor vehicle.

The registration requirements for service contract providers of customer goods and motor vehicle programs are amended. Service contract providers who insure all service contracts under a reimbursement insurance policy through an insurer or risk-retention group as prescribed in statute are authorized to submit annual financial statements that are certified as accurate by two or more officers of the company. Such certified statements will substitute for the annual financial statements audited by a third party.

EFFECT OF CHANGES MADE BY FINANCIAL INSTITUTIONS, HOUSING & INSURANCE COMMITTEE (Recommended Amendments): Allows an applicant for a service contract provider registration to meet the requirement of assuring the faithful performance of their obligations to service contract holders by submitting annual financial statements, certified as accurate by two or more officers of the service contract provider, in place of submitting annual audited financial statements for the two most recent years.

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 on Substitute House Bill: PRO: This bill broadens services contracts and would certainly be a benefit to consumers. It has broad support and I appreciate the committee's consideration of this legislation. This is the identical bill to SSB 5977, which was approved by this committee and passed unanimously by the Senate. This bill would add an array of additional insurance products for consumers in this state. We request the support of a potential amendment adding to the content of this bill SSB 5978, which was passed by this committee but did not make it out of the Senate before cutoff. The title of both bills are identical and the subject matter of SSB 5978 is very similar to the bill before the committee. The House committee passed the exact amendment to the Senate companion.

Persons Testifying: PRO: Representative Parker, prime sponsor; Mel Sorenson, Motor Vehicle Ancillary Products Assn., Service Contract Industry Council.