

FINAL BILL REPORT

SSB 5977

C 82 L 14
Synopsis as Enacted

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

Sponsors: Senate Committee on Financial Institutions, Housing & Insurance (originally sponsored by Senators Hobbs and Fain).

Senate Committee on Financial Institutions, Housing & Insurance
House Committee on Business & Financial Services

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 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;

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- 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 statute 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: 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.

Votes on Final Passage:

Senate	49	0	
House	96	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: June 12, 2014