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**Consumer Protection & Business  
Committee**

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**HB 1001**

**Brief Description:** Concerning service contract providers.

**Sponsors:** Representatives Kirby and Vick.

**Brief Summary of Bill**

- Amends the list of service contract products not prohibited by law.
- Amends financial responsibility requirements applicable to service contract providers and product protection guarantee providers.
- Defines "wholly owned subsidiary" for the purposes of a motor vehicle manufacturer or import distributor motor vehicle service contract.

**Hearing Date:** 1/15/19

**Staff:** Serena Dolly (786-7150).

**Background:**

Service Contract Providers.

A service contract is a contract or agreement entered into at any time for consideration over and above the lease or purchase price of the property, for any specific duration, to perform the repair, replacement, or maintenance for operational or structural failure due to defect in materials or workmanship, or normal wear and tear. Service contract providers may cover, in whole or in part, residential water, sewer, utilities, or similar systems with or without coverage of appliances or from sharing contract revenue with local governments or other third parties for endorsement or marketing services.

Protection Product Guarantee Providers.

A protection product is a substance, device, or system that is designed to protect another product from damage, such as a coating intended to protect paint from sun damage. A protection product

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guarantee is an agreement to replace or repair the product that the protection product was designed to protect, or pay incidental costs resulting from its damage.

#### Insurance Code.

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 products and transactions, such as service contracts and protection product guarantees, that generally fall within the definition of insurance have been addressed by exemptions from the Code or the creation of a specific regulatory structure. Service contract and protection product guarantee providers are not 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.

Service contract and protection product guarantee providers are required to be registered with the Office of the Insurance Commissioner (Commissioner). The Commissioner may refuse to issue a registration if he or she determines that the service contract provider:

- is not competent;
- is not trustworthy;
- is not financially responsible; or
- has had a license denied or revoked for cause in any state.

#### Financial Responsibility for Service Contract Providers and Protection Product Guarantee Providers.

Service contract providers and protection product guarantee providers may choose one of the following options to ensure that all obligations and liabilities are paid:

- Option A: insure its service contracts with a reimbursement insurance policy, to be approved by the Commissioner;
- Option B: maintain a funded reserve account that includes a portion of the gross consideration received for all service contracts and give the Commissioner a financial security deposit; or
- Option C: maintain, or have a parent company that maintains a net worth or stockholders' equity of \$100 million or more.

#### Motor Vehicle Service Contracts.

Providers of service contracts specifically relating to motor vehicles are subject to similar requirements as other service contract providers with some exemptions.

#### **Summary of Bill:**

##### Service Contract Providers.

Plumbing, electrical, and heating and cooling systems are added to the list of items that are not prohibited from coverage.

Financial Responsibility for Service Contract Providers and Product Protection Guarantee Providers.

The solvency standard for service contract and product protection guarantee providers that insure their contracts is defined as providers that maintain a minimum net worth or stockholders' equity of \$200,000 or more. Minimum net worth shall be calculated in accordance with generally accepted accounting principles set forth by the financial accounting standards board or statutory accounting principles.

Service contract providers that maintain a funded reserve or maintain a net worth or stockholders' equity of \$100 million in order to prove financial responsibility shall use generally accepted accounting principles set forth by the financial accounting standards but must exclude goodwill, franchises, customer lists, patents or trademarks, and receivables from or advances to officers, directors, employees, salesmen, and affiliated companies. However, the accounting may include receivables from an affiliated company if the affiliated company provides a written irrevocable guarantee to assure repayment of all receivables, and the guaranteeing organization has a net worth of stockholders' equity in excess of \$100 million. The service contract and product protection guarantee providers must show an ability to pay its debts when debts become due.

Motor Vehicle Service Contracts.

Wholly owned subsidiaries of a motor vehicle manufacturer or import distributor is defined as a company that is ultimately owned, directly or indirectly, 100 percent by single or multiple motor vehicle manufacturers or import distributors.

**Appropriation:** None.

**Fiscal Note:** Requested on January 9, 2019.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.