

# FINAL BILL REPORT

## HB 1001

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Synopsis as Enacted

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

**Sponsors:** Representatives Kirby and Vick.

**House Committee on Consumer Protection & Business**  
**Senate Committee on Financial Institutions, Economic Development & Trade**

### **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.

#### 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 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.

Insurance and insurance transactions are governed by state law. For example, insurers must meet certain financial requirements and agents, solicitors, and brokers of insurance must 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 are exempt from regulation as insurance or are regulated separately. 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.

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*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.*

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:**

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 must be calculated in accordance with generally accepted accounting principles set forth by the Financial Accounting Standards Board (FASB) 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 must use generally accepted accounting principles set forth by the FASB, 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.

**Votes on Final Passage:**

House	98	0
Senate	46	0

**Effective:** July 28, 2019