

HOUSE BILL REPORT

HB 1704

As Passed House:

February 14, 2022

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

Brief Description: Regulating service contracts and protection product guarantees.

Sponsors: Representatives Kirby, Vick, Ryu and Dufault.

Brief History:

Committee Activity:

Consumer Protection & Business: 1/12/22, 1/13/22 [DP].

Floor Activity:

Passed House: 2/14/22, 97-0.

Brief Summary of Bill

- Revises reimbursement insurance policy requirements applicable to service contract providers and protection product guarantee providers.

HOUSE COMMITTEE ON CONSUMER PROTECTION & BUSINESS

Majority Report: Do pass. Signed by 7 members: Representatives Kirby, Chair; Walen, Vice Chair; Vick, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Corry, Ryu and Santos.

Staff: Michelle Rusk (786-7153).

Background:

The regulation of service contracts and protection product guarantees is governed by the Insurance Code (Code) in Title 48 RCW.

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

Service Contracts.

A service contract is a contract or agreement entered into for consideration over and above the lease or purchase price of property, for any specific duration, for the repair, replacement, or maintenance of property.

A service contract includes various service agreements for, among other things:

- the removal of certain dents, dings, or creases on a motor vehicle;
- the repair or replacement of tires and/or wheels as a result of damage caused by road hazards;
- the replacement of a motor vehicle key or key fob; and
- other services approved by rule of the Insurance Commissioner (Commissioner).

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

Protection Product Guarantees.

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 a written agreement to replace or repair the product that the protection product was designed to protect or pay incidental costs resulting from its damage.

Financial Responsibility for Service Contract and Protection Product Providers.

Service contract and protection product guarantee providers are required to be registered with the Commissioner. The Commissioner may refuse a registration if he or she determines that the provider is not, among other things, financially responsible.

To satisfy the requirement that providers demonstrate their financial responsibility or assure the faithful performance of their obligations to contract and guarantee holders, providers may insure protection product guarantees and service contracts with a "reimbursement insurance policy." A reimbursement insurance policy is a policy of insurance issued to a provider to reimburse, or to pay on behalf of the provider, all contractual obligations a provider incurs under the terms of an insured contract or guarantee. Each policy must be filed with and be approved by the Commissioner.

Reimbursement Insurance Policies.

A reimbursement insurance policy must fully insure the provider's obligations under a service contract or protection product guarantee, rather than partially insure or insure only in the event a provider defaults and is unable to perform its obligations under a contract or guarantee.

Reimbursement insurance policies issued, sold, or offered for sale in Washington must state that the insurer that issued the policy will reimburse or pay on behalf of the provider all sums the provider is legally obligated to pay.

Summary of Bill:

Reimbursement Insurance Policies.

Reimbursement insurance policies insuring service contracts or protection product guarantees must either fully insure the obligations of a provider or insure payment on behalf of a provider only in the event the provider is unable to perform on the service contract or protection product guarantee.

Reimbursement insurance policies issued, sold, or offered for sale in Washington must state that the insurer issuing the policy will either reimburse the provider or pay on behalf of the provider if the provider is unable to perform under the contract or guarantee.

Obligations of Service Contract and Protection Product Guarantee Providers.

Service contract and protection product guarantee providers may use one or more reimbursement insurance policies, issued by one or more insurers, to demonstrate financial responsibility or assure the faithful performance of the provider's obligations to contract and guarantee holders. Each reimbursement insurance policy or policies must be filed with and approved by the Commissioner.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The basic purpose of this bill is to bring Washington's regulatory architecture for regulation of the service contract industry into greater alignment with the regulatory structure utilized in most other states that do regulate service contracts. These changes are for the benefit of consumers and will allow service contract providers to purchase less insurance, and because providers are purchasing less insurance the embedded cost to consumers will be less. This is an appropriate, consumer-oriented measure that continues to apply full consumer protections as are provided now, simply in a more flexible and cost-effective way. Nothing in the bill impairs the regulatory authority of the Office of the Insurance Commissioner or impairs consumer protections to make sure service contract providers are in a position to make good on the promises they've made with consumers.

(Opposed) The Office of the Insurance Commissioner opposes the proposed changes because they erode consumer protections established by the "first-dollar" insurance requirements. The changes do not define or provide sufficient clarity of new terms and processes, such as nonperformance of a provider, processing claims with multiple providers, and notification requirements.

Persons Testifying: (In support) Representative Steve Kirby, prime sponsor; Mel Sorensen, Service Contract Industry Council and American Property Casualty Insurance Association; and Aaron Lunt, Service Contract Industry Council.

(Opposed) Michael Walker, Office of the Insurance Commissioner.

Persons Signed In To Testify But Not Testifying: None.