

HOUSE BILL REPORT

HB 1928

As Reported by House Committee On:
Consumer Protection & Business

Title: An act relating to regulating service contracts and protection product guarantees.

Brief Description: Regulating service contracts and protection product guarantees.

Sponsors: Representatives Ryu, Robertson and Reed.

Brief History:

Committee Activity:

Consumer Protection & Business: 1/12/24, 1/19/24 [DPS].

Brief Summary of Substitute Bill

- Modifies financial responsibility provisions for protection product guarantee providers and service contract providers for motor vehicles.
- Makes changes to requirements for reimbursement insurance policies.

HOUSE COMMITTEE ON CONSUMER PROTECTION & BUSINESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Walen, Chair; Reeves, Vice Chair; Robertson, Ranking Minority Member; McClintock, Assistant Ranking Minority Member; Donaghy, Hackney, Ryu, Sandlin and Santos.

Minority Report: Without recommendation. Signed by 3 members: Representatives Chapman, Connors and Volz.

Staff: Michelle Rusk (786-7153).

Background:

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 and Protection Product Guarantees.

The regulation of service contracts and protection product guarantees is governed by the Insurance Code (Code). Service contract providers, protection product guarantee providers, and providers of service contracts on motor vehicles (Providers) are required to be registered with the Office of the Insurance Commissioner (Commissioner) and meet requirements under the Code, including demonstrating financial responsibility or otherwise assuring the faithful performance of their obligations to contract and guarantee holders.

Service Contracts.

A service contract is an agreement 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; and the replacement of a motor vehicle key or key fob. The holder of a service contract may return and void the contract within specified time periods and obtain a refund.

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

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.

Providers are required to register with the Commissioner, who may refuse a registration upon a determination that the provider has not, among other things, met the Code's financial responsibility requirements. The Code specifies ways different providers may demonstrate financial responsibility or otherwise assure the faithful performance of their obligations:

Service Contract Providers	Protection Product Guarantee Providers	Providers of Service Contracts on Motor Vehicles
1. Insure all protection product guarantees under a reimbursement insurance policy. 2. Maintain a funded reserve account or place a financial	1. Insure all protection product guarantees under a reimbursement insurance policy.	1. Insure all protection product guarantees under a reimbursement insurance policy.

<p>security deposit in trust with the commissioner, subject to specified requirements.</p> <p>3. Maintain, or its parent company maintains, a net worth of stockholder's equity of at least one hundred million dollars.</p>		
--	--	--

Reimbursement Insurance Policies.

A reimbursement insurance policy is a policy of insurance issued to a provider to reimburse or pay on behalf of the provider all contractual obligations incurred by the provider under the terms of a service contract or protection product guarantee issued or sold by the provider. A policy must be filed with and approved by the Commissioner.

The following requirements apply to reimbursement insurance policies:

1. Policies issued, sold, or offered for sale in Washington must state that the insurer issuing the policy will reimburse or pay on behalf of the provider all sums the provider is legally obligated to pay, or provide the service the provider is legally obligated to perform under the contract or guarantee.
2. Policies 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.
3. Policies must also state that the holder is entitled to apply directly to the reimbursement insurance company for payment or performance.

Summary of Substitute Bill:

Financial Responsibility.

The following changes are made to financial responsibility requirements under the Code:

- Separate financial responsibility requirements for protection product guarantee providers and providers of service contracts on motor vehicles are stricken.
- Protection product guarantee providers and providers of service contracts on motor vehicles are made subject to the same options for demonstrating financial responsibility as the general service contract providers.
- The option to satisfy financial responsibility with a reimbursement insurance policy is modified to allow for insuring each service contract or protection product guarantee under a reimbursement insurance policy.

A motor vehicle service contract that is not insured under a reimbursement insurance policy must state: "Obligations of the service contract provider under this contract are backed by the full faith and credit of the service contract provider."

Reimbursement Insurance Policies.

The definition of "reimbursement insurance policy" is modified to include a policy of insurance issued to a provider to pay on behalf of the provider each contractual obligation incurred by it in the event of a provider's nonperformance or the provider is unable to fulfill its contractual obligations to the consumer. A provider may have more than one policy concurrently in force.

The following changes are made to reimbursement insurance policy requirements:

1. Policies issued, sold, or offered for sale in Washington must state that the issuing insurer will either: (a) reimburse the provider; or (b) in the event of nonperformance by the provider or the provider is unable to fulfill its contractual obligations to the consumer, the insurer will pay on behalf of the provider all sums the provider is legally obligated to pay, or provide the service the provider is legally obligated to perform.
2. Providers may use one or more reimbursement insurance policies, and reimbursement insurance policy or policies must either: (a) fully insure a provider's obligations; or (b) insure only in the event of a provider's default or failure to perform.
3. A new requirement is established that if a reimbursement insurance policy only pays or provides benefits in the event of a provider's nonperformance, or when the provider is unable to fulfill its contractual obligations, then the policy must also state that in the event a covered service or product is not provided by the provider within thirty days of proof of loss by the holder, the holder is entitled to apply directly to the reimbursement insurance company for payment or performance due. If the provider has ceased operation, the holder may apply directly to the reimbursement insurance company for payment or performance due without waiting thirty days.

Additional Revisions.

Providers must file with the Commissioner each reimbursement insurance policy if using one or more reimbursement insurance policies to satisfy its financial responsibility requirements.

Service contract providers and protection product guarantee providers are considered to be the agent of each insurer who issues a reimbursement insurance policy or policies, and a consumer's payment of the provider fee constitutes the consumer's payment to the provider and to each insurer who issued the reimbursement insurance policy or policies.

Substitute Bill Compared to Original Bill:

The substitute bill:

- expands the definition of "reimbursement insurance policy" to include a policy of

- insurance issued to a provider, to pay on behalf of the provider, each contractual obligation incurred by the provider in the event of a provider's nonperformance or the provider is unable to fulfill its contractual obligations to the consumer. A provider may have more than one policy concurrently in force;
- removes the modification to one of the requirements for reimbursement insurance policies that would have required policies to state that in the event a covered service or product is not provided by the service contract provider, or protection product guarantee provider, within 60 days of proof of loss by the service contract or protection product guarantee holder, then the contract or guarantee holder is entitled to apply directly to a reimbursement insurance company for payment or performance due; and
 - adds a new requirement that if a reimbursement insurance policy only pays or provides benefits in the event of a provider's nonperformance, or when the provider is unable to fulfill its contractual obligations, then the policy must also state that in the event a covered service or product is not provided by the provider within 30 days of proof of loss by the holder, the holder is entitled to apply directly to the reimbursement insurance company for payment or performance due. If the provider has ceased operation, the holder may apply directly to the reimbursement insurance company for payment or performance due without waiting 30 days.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This policy is very similar to a policy from two years ago, which passed the Legislature but was vetoed by the Governor. The industry and Office of the Insurance Commissioner (OIC) have worked together since that time and the OIC greatly appreciates the industry's efforts and willingness to take on some of the consumer protections that the OIC proposed, many of which you see in this bill. The policy achieves several improvements, including expanding ways of providers to demonstrate financial responsibility, maintaining the option for a "first dollar contractual liability insurance policy (CLIP)," authorizing the use of multiple reimbursement insurance policies, and drafting with sufficient clarity new terms and processes including nonperformance of a provider. The OIC's mission is to protect consumers, public interest, and our economy through efficient regulation of the insurance industry, and feels the proposed substitute bill, including its requirements regarding consumers, helps to ensure these protections. Industry groups emphatically support this policy which enhances this industry in Washington and brings it in line with other states for the benefit of consumers in the industry. These

changes in policy enable greater flexibility with how providers engage in business, allowing for a more stable market and reduction in costs that might otherwise be passed along to consumers.

(Opposed) None.

Persons Testifying: Representative Cindy Ryu, prime sponsor; Travis Moore, Service Contract Industry Council; and Bryon Welch and Michael Walker, Office of the Insurance Commissioner.

Persons Signed In To Testify But Not Testifying: None.