

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2776

Chapter 36, Laws of 2006

59th Legislature
2006 Regular Session

HOME HEATING FUEL SERVICE CONTRACTS

EFFECTIVE DATE: 6/7/06

Passed by the House February 14, 2006
Yeas 95 Nays 3

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate February 28, 2006
Yeas 48 Nays 0

BRAD OWEN

President of the Senate

Approved March 14, 2006.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2776** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

March 14, 2006 - 2:55 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2776

Passed Legislature - 2006 Regular Session

State of Washington 59th Legislature 2006 Regular Session

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Dickerson, Kirby, Roach and McDonald)

READ FIRST TIME 01/30/06.

1 AN ACT Relating to home heating fuel service contracts; amending
2 RCW 48.110.015 and 48.110.020; adding a new chapter to Title 48 RCW;
3 and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that certain service
6 contracts involving providers of home heating fuel and homeowners are
7 in the public interest. The legislature further finds that the
8 existing statutory provisions regulating service contracts are more
9 burdensome than is necessary to safeguard homeowners from the risk that
10 a contract obligor will close or be unable to fulfill their contract
11 obligations. The legislature declares that it is necessary to
12 establish separate standards that will safeguard certain homeowners
13 from possible losses arising from the cessation of business of a home
14 heating fuel company or the mismanagement of funds paid for home
15 heating fuel service contracts. The purpose of this chapter is to
16 create a legal framework within which home heating fuel service
17 contracts may be sold in this state and set forth requirements for
18 conducting a service contract business.

1 NEW SECTION. **Sec. 2.** The definitions in this section apply
2 throughout this chapter unless the context clearly requires otherwise.

3 (1) "Administrator" means the person who is responsible for the
4 administration of the service contracts or the service contracts plan.

5 (2) "Commissioner" means the insurance commissioner of this state.

6 (3) "Consumer" means an individual who buys any tangible personal
7 property that is primarily for personal, family, or household use.

8 (4) "Home heating fuel service contract" means a contract or
9 agreement for a separately stated consideration for a specific duration
10 to perform the repair, replacement, or maintenance of a customer-owned
11 home heating fuel supply system including the fuel tank and all visible
12 pipes, caps, lines, and associated parts or the indemnification for
13 repair, replacement, or maintenance for operational or structural
14 failure due to a defect in materials or workmanship, or normal wear and
15 tear.

16 (5) "Person" means an individual, partnership, corporation,
17 incorporated or unincorporated association, joint stock company,
18 reciprocal insurer, syndicate, or any similar entity or combination of
19 entities acting in concert.

20 (6) "Premium" means the consideration paid to an insurer for a
21 reimbursement insurance policy.

22 (7) "Provider fee" means the consideration paid by a consumer for
23 a home heating fuel service contract.

24 (8) "Reimbursement insurance policy" means a policy of insurance
25 that is issued to a service contract provider to provide reimbursement
26 to the service contract provider or to pay on behalf of the service
27 contract provider all contractual obligations incurred by the service
28 contract provider under the terms of the insured service contracts
29 issued or sold by the service contract provider.

30 (9) "Home heating fuel service contract holder" or "contract
31 holder" means a person who is the purchaser or holder of a home heating
32 fuel service contract.

33 (10) "Home heating fuel service contract provider" or "contract
34 provider" means a person who is providing home heating fuel delivery
35 services to the customer and is contractually obligated to the home
36 heating fuel service contract holder under the terms of the service
37 contract.

1 (11) "Home heating fuel service contract seller" means the person
2 who sells the home heating fuel service contract to the consumer.

3 (12) "Warranty" means a warranty made solely by the manufacturer,
4 importer, or seller of property or services without consideration; that
5 is not negotiated or separated from the sale of the product and is
6 incidental to the sale of the product; and that guarantees indemnity
7 for defective parts, mechanical or electrical breakdown, labor, or
8 other remedial measures, such as repair or replacement of the property
9 or repetition of services.

10 NEW SECTION. **Sec. 3.** (1) A person shall not act as, or offer to
11 act as, or hold himself or herself out to be a home heating fuel
12 service contract provider in this state, nor may a home heating fuel
13 service contract be sold to a consumer in this state, unless the
14 contract provider has a valid registration as a home heating fuel
15 service contract provider issued by the commissioner.

16 (2) Applicants to be a home heating fuel service contract provider
17 shall make an application to the commissioner upon a form to be
18 furnished by the commissioner. The application must include or be
19 accompanied by the following information and documents:

20 (a) All basic organizational documents of the home heating fuel
21 service contract provider, including any articles of incorporation,
22 articles of association, partnership agreement, trade name certificate,
23 trust agreement, shareholder agreement, bylaws, and other applicable
24 documents, and all amendments to those documents;

25 (b) The identities of the contract provider's executive officer or
26 officers directly responsible for the contract provider's home heating
27 fuel service contract business;

28 (c) Annual financial statements or other financial reports
29 acceptable to the commissioner for the two most recent years which
30 prove that the applicant is solvent and any information the
31 commissioner may require in order to review the current financial
32 condition of the applicant;

33 (d) An application fee of one hundred dollars, which must be
34 deposited into the general fund; and

35 (e) Any other pertinent information required by the commissioner.

36 (3) The commissioner may refuse to issue a registration if the
37 commissioner determines that the home heating fuel service contract

1 provider, or any individual responsible for the conduct of the affairs
2 of the contract provider under subsection (2)(b) of this section, is
3 not competent, trustworthy, or financially responsible.

4 (4) A registration issued under this section is valid, unless
5 surrendered, suspended, or revoked by the commissioner, or not renewed
6 for so long as the service contract provider continues in business in
7 this state and remains in compliance with this chapter. A registration
8 is subject to renewal annually on July 1st upon application of the home
9 heating fuel service contract provider and payment of a fee of twenty-
10 five dollars, which must be deposited into the insurance commissioner's
11 regulatory account under RCW 48.02.190. If not so renewed, the
12 registration expires on July 31st of that year.

13 (5) A home heating fuel service contract provider shall keep
14 current the information required to be disclosed in its registration
15 under this section by reporting all material changes or additions
16 within thirty days after the end of the month in which the change or
17 addition occurs.

18 NEW SECTION. **Sec. 4.** (1) Every registered home heating fuel
19 service contract provider that is assuring its faithful performance of
20 its obligations to its contract holders by complying with section
21 5(2)(b) of this act shall file an annual report for the preceding
22 calendar year with the commissioner on or before March 1st of each
23 year, or within any extension of time the commissioner for good cause
24 may grant. The report must be in the form and contain those matters as
25 the commissioner prescribes and must be verified by at least two
26 officers of the home heating fuel service contract provider.

27 (2) As part of an investigation by the commissioner, the
28 commissioner may require a home heating fuel service contract provider
29 to file monthly financial reports whenever, in the commissioner's
30 discretion, there is a need to more closely monitor the financial
31 activities of the service contract provider. Monthly financial
32 statements must be filed in the commissioner's office no later than the
33 twenty-fifth day of the month following the month for which the
34 financial report is being filed. These monthly financial reports must
35 be the internal financial statements of the service contract provider.
36 The monthly financial reports that are filed with the commissioner
37 constitute information that might be damaging to the service contract

1 provider if made available to its competitors, and therefore shall be
2 kept confidential by the commissioner. This information may not be
3 made public or be subject to subpoena, other than by the commissioner
4 and then only for the purpose of enforcement actions taken by the
5 commissioner.

6 NEW SECTION. **Sec. 5.** (1) Home heating fuel service contracts may
7 not be issued, sold, or offered for sale in this state or sold to
8 consumers in this state unless the contract provider has:

9 (a) Provided a receipt for, or other written evidence of, the
10 purchase of the home heating fuel service contract to the contract
11 holder; and

12 (b) Provided a copy of the home heating fuel service contract to
13 the service contract holder within a reasonable period of time from the
14 date of purchase.

15 (2) In order to assure the faithful performance of a home heating
16 fuel service contract provider's obligations to its contract holders,
17 every home heating fuel service contract provider is responsible for
18 complying with the requirements of one of the following:

19 (a) Insure all home heating fuel service contracts under a
20 reimbursement insurance policy issued by an insurer holding a
21 certificate of authority from the commissioner; or

22 (b)(i) Maintain a funded reserve account for its obligations under
23 its home heating service contracts issued and outstanding in this
24 state. The reserves may not be less than forty percent of the gross
25 consideration received, less claims paid, on the sale of the home
26 heating fuel service contract for all in-force contracts. The reserve
27 account is subject to examination and review by the insurance
28 commissioner; and

29 (ii) Place in trust with the commissioner a financial security
30 deposit, having a value of not less than five percent of the gross
31 consideration received, less claims paid, on the sale of the service
32 contract for all service contracts issued and in force, but not less
33 than ten thousand dollars, consisting of one of the following:

34 (A) A surety bond issued by an insurer holding a certificate of
35 authority from the commissioner;

36 (B) Securities of the type eligible for deposit by authorized
37 insurers in this state;

1 (C) Cash;

2 (D) An evergreen letter of credit issued by a qualified financial
3 institution;

4 (E) A pledged certificate of deposit issued by a qualified
5 financial institution; or

6 (F) Another form of security prescribed by rule by the
7 commissioner.

8 (3) Home heating fuel service contracts must require the contract
9 provider to permit the contract holder to return the home heating fuel
10 service contract within thirty days of the date the home heating fuel
11 service contract was delivered to the contract holder, or within a
12 longer time period permitted under the home heating fuel service
13 contract. Upon return of the home heating fuel service contract to the
14 contract provider within the applicable period, if no claim has been
15 made under the home heating fuel service contract prior to the return
16 to the contract provider, the home heating fuel service contract is
17 void and the contract provider shall refund to the contract holder, or
18 credit the account of the contract holder with the full purchase price
19 of the home heating fuel service contract. The right to void the home
20 heating fuel service contract provided in this subsection is not
21 transferable and applies only to the original contract purchaser. A
22 ten percent penalty per month must be added to a refund of the purchase
23 price that is not paid or credited within thirty days after return of
24 the home heating fuel service contract to the contract provider.

25 (4) Except for home heating fuel service contract providers,
26 persons marketing, selling, or offering to sell home heating service
27 contracts for providers are exempt from the registration requirements
28 of this chapter.

29 (5) The marketing, sale, offering for sale, issuance, making,
30 proposing to make, and administration of home heating fuel service
31 contracts by contract providers and related contract sellers,
32 administrators, and other persons complying with this chapter are
33 exempt from the other provisions of this title, except chapter 48.04
34 RCW and as otherwise provided in this chapter.

35 NEW SECTION. **Sec. 6.** (1) Reimbursement insurance policies
36 insuring home heating fuel service contracts issued, sold, or offered
37 for sale in this state or sold to consumers in this state must state

1 that the insurer that issued the reimbursement insurance policy shall
2 reimburse or pay on behalf of the contract provider all sums the
3 contract provider is legally obligated to pay, including but not
4 limited to the refund of the full purchase price of the contract to the
5 contract holder or shall provide the service which the contract
6 provider is legally obligated to perform according to the contract
7 provider's contractual obligations under the home heating fuel service
8 contracts issued or sold by the contract provider.

9 (2) The reimbursement insurance policy must fully insure the
10 obligations of the contract provider, rather than partially insure, or
11 insure only in the event of contract provider default.

12 (3) The reimbursement insurance policy must state that the contract
13 holder is entitled to apply directly to the reimbursement insurance
14 company.

15 NEW SECTION. **Sec. 7.** (1) Home heating fuel service contracts
16 marketed, sold, offered for sale, issued, made, proposed to be made, or
17 administered in this state or sold to residents of this state must be
18 written, printed, or typed in clear, understandable language that is
19 easy to read, and disclose the requirements set forth in this section,
20 as applicable.

21 (2) Home heating fuel service contracts insured under a
22 reimbursement insurance policy must not be issued, sold, or offered for
23 sale in this state or sold to residents of this state unless the home
24 heating fuel service contract conspicuously contains a statement in
25 substantially the following form: "Obligations of the home heating
26 fuel service contract provider under this contract are insured under a
27 contract reimbursement insurance policy." The home heating fuel
28 service contract must also conspicuously state the name and address of
29 the issuer of the reimbursement insurance policy and state that the
30 contract holder is entitled to apply directly to the reimbursement
31 insurance company.

32 (3) Service contracts not insured under a reimbursement insurance
33 policy must contain a statement in substantially the following form:
34 "Obligations of the home heating fuel service contract provider under
35 this contract are backed by the full faith and credit of the home
36 heating fuel service contract provider."

1 (4) Home heating fuel service contracts must state the name and
2 address of the contract provider and must identify any administrator if
3 different from the contract provider, the contract seller, and the
4 contract holder to the extent that the name of the contract holder has
5 been furnished by the contract holder. The identities of the parties
6 are not required to be preprinted on the home heating fuel service
7 contract and may be added to the home heating fuel service contract at
8 the time of sale.

9 (5) Home heating fuel service contracts must state the purchase
10 price of the contract and the terms under which the home heating fuel
11 service contract is sold. The purchase price is not required to be
12 preprinted on the home heating fuel service contract and may be
13 negotiated at the time of sale.

14 (6) Home heating fuel service contracts must state the procedure to
15 obtain service or to file a claim, including but not limited to the
16 procedures for obtaining prior approval for repair work, the toll-free
17 telephone number if prior approval is necessary for service, and the
18 procedure for obtaining emergency repairs performed outside of normal
19 business hours or provide for twenty-four hour telephone assistance.

20 (7) Home heating fuel service contracts must state the existence of
21 any deductible amount, if applicable.

22 (8) Home heating fuel service contracts must specify the
23 merchandise and services to be provided and any limitations,
24 exceptions, or exclusions.

25 (9) Home heating fuel service contracts must state any restrictions
26 governing the transferability of the service contract, if applicable.

27 (10) Home heating fuel service contracts must state the terms,
28 restrictions, or conditions governing cancellation of the home heating
29 fuel service contract prior to the termination or expiration date of
30 the home heating fuel service contract by either the contract provider
31 or by the contract holder, which rights can be no more restrictive than
32 provided in section 5 of this act. The contract provider of the home
33 heating fuel service contract shall mail a written notice to the
34 contract holder at the last known address of the contract holder
35 contained in the records of the contract provider at least twenty-one
36 days prior to cancellation by the contract provider. The notice must
37 state the effective date of the cancellation and the true and actual
38 reason for the cancellation.

1 (11) Home heating fuel service contracts must set forth the
2 obligations and duties of the contract holder, including but not
3 limited to the duty to protect against any further damage and any
4 requirement to follow owner's manual instructions.

5 (12) Home heating fuel service contracts must state whether or not
6 the home heating fuel service contract provides for or excludes
7 consequential damages or preexisting conditions.

8 (13) Home heating fuel service contracts must not contain a
9 provision that requires that any civil action brought in connection
10 with the home heating fuel service contract must be brought in the
11 courts of a jurisdiction other than this state. Home heating service
12 contracts that authorize binding arbitration to resolve claims or
13 disputes may allow for arbitration proceedings to be held at a location
14 in closest proximity to the contract holder's permanent residence.

15 NEW SECTION. **Sec. 8.** (1) A home heating fuel service contract
16 provider shall not use in its name the words insurance, casualty,
17 guaranty, surety, mutual, or any other words descriptive of the
18 insurance, casualty, guaranty, or surety business; or a name
19 deceptively similar to the name or description of any insurance or
20 surety corporation, or to the name of any other home heating fuel
21 service contract provider. This subsection does not apply to a company
22 that was using any of the prohibited language in its name prior to the
23 effective date of this section. However, a company using the
24 prohibited language in its name shall conspicuously disclose in its
25 home heating fuel service contracts the following statement: "This
26 agreement is not an insurance contract."

27 (2) Every home heating fuel service contract provider shall conduct
28 its business in its own legal name, unless the commissioner has
29 approved the use of another name.

30 (3) A home heating fuel service contract provider or its
31 representative shall not in its contracts or literature make, permit,
32 or cause to be made any false or misleading statement, or deliberately
33 omit any material statement that would be considered misleading if
34 omitted.

35 (4) A person, such as a bank, savings and loan association, lending
36 institution, manufacturer, or seller shall not require the purchase of

1 a home heating fuel service contract as a condition of a loan or a
2 condition for the sale of any property.

3 NEW SECTION. **Sec. 9.** (1) The home heating fuel service contract
4 provider shall keep accurate accounts, books, and records concerning
5 transactions regulated under this chapter.

6 (2) The contract provider's accounts, books, and records must
7 include the following:

8 (a) Copies of each type of home heating fuel service contract sold;

9 (b) The name and address of each contract holder, to the extent
10 that the name and address have been furnished by the contract holder;
11 and

12 (c) Written claim files that contain at least the dates, amounts,
13 and descriptions of claims related to the service contracts.

14 (3) The records required under this chapter may be, but are not
15 required to be, maintained on a computer disk or other recordkeeping
16 technology. If the records are maintained in other than hard copy, the
17 records must be capable of duplication to legible hard copy.

18 (4) A home heating fuel service contract provider discontinuing
19 business in this state shall maintain its records until it furnishes
20 the commissioner satisfactory proof that it has discharged all
21 obligations to service contract holders in this state.

22 NEW SECTION. **Sec. 10.** As applicable, an insurer that issued a
23 reimbursement insurance policy shall not terminate the policy until a
24 notice of termination in accordance with RCW 48.18.290 has been given
25 to the home heating fuel service contract provider and has been
26 delivered to the commissioner. The termination of a reimbursement
27 insurance policy does not reduce the issuer's responsibility for home
28 heating fuel service contracts issued by contract providers prior to
29 the effective date of the termination.

30 NEW SECTION. **Sec. 11.** (1) Home heating fuel service contract
31 providers are the agent of the insurer that issued the reimbursement
32 insurance policy for purposes of obligating the insurer to contract
33 holders in accordance with the home heating fuel service contract and
34 this chapter. Payment of the provider fee by the consumer to the home
35 heating fuel service contract seller, contract provider, or

1 administrator constitutes payment by the consumer to the home heating
2 fuel service contract provider and to the insurer that issued the
3 reimbursement insurance policy. In cases when a contract provider is
4 acting as an administrator and enlists other contract providers, the
5 contract provider acting as the administrator shall notify the insurer
6 of the existence and identities of the other contract providers.

7 (2) This chapter does not prevent or limit the right of an insurer
8 that issued a reimbursement insurance policy to seek indemnification or
9 subrogation against a home heating fuel service contract provider if
10 the issuer pays or is obligated to pay the contract holder sums that
11 the contract provider was obligated to pay under the provisions of the
12 home heating fuel service contract.

13 NEW SECTION. **Sec. 12.** (1) The commissioner may conduct
14 investigations of home heating fuel service contract providers,
15 administrators, home heating fuel service contract sellers, insurers,
16 and other persons to enforce this chapter and protect home heating fuel
17 service contract holders in this state. Upon request of the
18 commissioner, the contract provider shall make all accounts, books, and
19 records concerning home heating fuel service contracts sold by the
20 contract provider available to the commissioner that are necessary to
21 enable the commissioner to determine compliance or noncompliance with
22 this chapter.

23 (2) The commissioner may take actions under RCW 48.02.080 or
24 48.04.050 that are necessary or appropriate to enforce this chapter and
25 the commissioner's rules and orders, and to protect home heating fuel
26 service contract holders in this state.

27 NEW SECTION. **Sec. 13.** (1) The commissioner may, subject to
28 chapter 48.04 RCW, deny, suspend, or revoke the registration of a home
29 heating fuel service contract provider if the commissioner finds that
30 the contract provider:

31 (a) Has violated this chapter or the commissioner's rules and
32 orders;

33 (b) Has refused to be investigated or to produce its accounts,
34 records, and files for investigation, or if any of its officers have
35 refused to give information with respect to its affairs or refused to

1 perform any other legal obligation as to an investigation, when
2 required by the commissioner;

3 (c) Has, without just cause, refused to pay proper claims or
4 perform services arising under its contracts or has, without just
5 cause, caused home heating fuel service contract holders to accept less
6 than the amount due them or caused home heating fuel service contract
7 holders to employ attorneys or bring suit against the contract provider
8 to secure full payment or settlement of claims;

9 (d) Is affiliated with or under the same general management or
10 interlocking directorate or ownership as another home heating fuel
11 service contract provider that unlawfully transacts business in this
12 state without having a registration;

13 (e) At any time fails to meet any qualification for which issuance
14 of the registration could have been refused had that failure then
15 existed and been known to the commissioner;

16 (f) Is under suspension or revocation in another state with respect
17 to its home heating fuel service contract business;

18 (g) Has made a material misstatement in its application for
19 registration;

20 (h) Has obtained or attempted to obtain a registration through
21 misrepresentation or fraud;

22 (i) Has, in the transaction of business under its registration,
23 used fraudulent, coercive, or dishonest practices;

24 (j) Has failed to pay any judgment rendered against it in this
25 state regarding a home heating fuel service contract within sixty days
26 after the judgment has become final; or

27 (k) Has been convicted of, or has entered a plea of guilty or nolo
28 contendere to, a property or finance-related felony.

29 (2) The commissioner may, without advance notice or hearing
30 thereon, immediately suspend the registration of a home heating fuel
31 service contract provider if the commissioner finds that any of the
32 following circumstances exist:

33 (a) The provider is insolvent;

34 (b) A proceeding for receivership, conservatorship, rehabilitation,
35 or other delinquency proceeding regarding the home heating fuel service
36 contract provider has been commenced in any state; or

37 (c) The financial condition or business practices of the home

1 heating fuel service contract provider otherwise pose an imminent
2 threat to the public health, safety, or welfare of the residents of
3 this state.

4 (3) If the commissioner finds that grounds exist for the suspension
5 or revocation of a registration issued under this chapter, the
6 commissioner may, in lieu of suspension or revocation, impose a fine
7 upon the home heating fuel service contract provider in an amount not
8 more than one thousand dollars per violation.

9 NEW SECTION. **Sec. 14.** The commissioner may adopt rules to
10 implement and administer this chapter.

11 NEW SECTION. **Sec. 15.** This chapter applies to all home heating
12 fuel service contracts sold or offered for sale after October 1, 2006.

13 **Sec. 16.** RCW 48.110.015 and 2000 c 208 s 1 are each amended to
14 read as follows:

- 15 (1) The following are exempt from this title:
16 (a) Warranties;
17 (b) Maintenance agreements; and
18 (c) Service contracts:
19 (i) Paid for with separate and additional consideration;
20 (ii) Issued at the point of sale, or within sixty days of the
21 original purchase date of the property; and
22 (iii) On tangible property when the tangible property for which the
23 service contract is sold has a purchase price of fifty dollars or less,
24 exclusive of sales tax.

- 25 (2) This chapter does not apply to:
26 (a) Vehicle service contracts which are governed under chapter
27 48.96 RCW;
28 (b) Vehicle mechanical breakdown insurance; ~~((and))~~
29 (c) Service contracts on tangible personal property purchased by
30 persons who are not consumers; and
31 (d) Home heating fuel service contracts offered by home heating
32 energy providers.

33 **Sec. 17.** RCW 48.110.020 and 2000 c 208 s 2 are each amended to
34 read as follows:

1 The definitions in this section apply throughout this chapter.

2 (1) "Administrator" means the person who is responsible for the
3 administration of the service contracts or the service contracts plan.

4 (2) "Commissioner" means the insurance commissioner of this state.

5 (3) "Consumer" means an individual who buys any tangible personal
6 property that is primarily for personal, family, or household use.

7 (4) "Maintenance agreement" means a contract of limited duration
8 that provides for scheduled maintenance only.

9 (5) "Person" means an individual, partnership, corporation,
10 incorporated or unincorporated association, joint stock company,
11 reciprocal insurer, syndicate, or any similar entity or combination of
12 entities acting in concert.

13 (6) "Premium" means the consideration paid to an insurer for a
14 reimbursement insurance policy.

15 (7) "Provider fee" means the consideration paid by a consumer for
16 a service contract.

17 (8) "Reimbursement insurance policy" means a policy of insurance
18 that is issued to a service contract provider to provide reimbursement
19 to the service contract provider or to pay on behalf of the service
20 contract provider all contractual obligations incurred by the service
21 contract provider under the terms of the insured service contracts
22 issued or sold by the service contract provider.

23 (9) "Service contract" means a contract or agreement for a
24 separately stated consideration for a specific duration to perform the
25 repair, replacement, or maintenance of property or the indemnification
26 for repair, replacement, or maintenance for operational or structural
27 failure due to a defect in materials or workmanship, or normal wear and
28 tear. Service contracts may provide for the repair, replacement, or
29 maintenance of property for damage resulting from power surges and
30 accidental damage from handling, with or without additional provision
31 for indemnity payments for incidental damages to other property
32 directly caused by the failure of the property which is the subject of
33 the service contract, provided the indemnity payment per incident does
34 not exceed the purchase price of the property that is the subject of
35 the service contract.

36 (10) "Service contract holder" or "contract holder" means a person
37 who is the purchaser or holder of a service contract.

1 (11) "Service contract provider" means a person who is
2 contractually obligated to the service contract holder under the terms
3 of the service contract.

4 (12) "Service contract seller" means the person who sells the
5 service contract to the consumer.

6 (13) "Warranty" means a warranty made solely by the manufacturer,
7 importer, or seller of property or services without consideration; that
8 is not negotiated or separated from the sale of the product and is
9 incidental to the sale of the product; and that guarantees indemnity
10 for defective parts, mechanical or electrical breakdown, labor, or
11 other remedial measures, such as repair or replacement of the property
12 or repetition of services.

13 (14) "Home heating fuel service contract" means a contract or
14 agreement for a separately stated consideration for a specific duration
15 to perform the repair, replacement, or maintenance of a home heating
16 fuel supply system including the fuel tank and all visible pipes, caps,
17 lines, and associated parts or the indemnification for repair,
18 replacement, or maintenance for operational or structural failure due
19 to a defect in materials or workmanship, or normal wear and tear.

20 NEW SECTION. Sec. 18. If any provision of this act or its
21 application to any person or circumstance is held invalid, the
22 remainder of the act or the application of the provision to other
23 persons or circumstances is not affected.

24 NEW SECTION. Sec. 19. Sections 1 through 15 and 18 of this act
25 constitute a new chapter in Title 48 RCW.

Passed by the House February 14, 2006.
Passed by the Senate February 28, 2006.
Approved by the Governor March 14, 2006.
Filed in Office of Secretary of State March 14, 2006.