

**SUBJECT:** Excluding service contracts from insurance regulations

**COMMITTEE:** Insurance — favorable, without amendment

**VOTE:** 9 ayes — Smithee, Van de Putte, Averitt, Bonnen, Burnam, Eiland, G. Lewis, Olivo, Wise  
0 nays

**WITNESSES:** For — Tom Bond, CarMax and General Electric  
Against — None

**DIGEST:** HB 3036 would establish that a service contract to repair or maintain property that is offered by the manufacturer or seller of the property would not constitute an insurance policy and would therefore not be regulated by the Texas Department of Insurance (TDI). The obligation of a third party other than the manufacturer or seller that offered a service contract would have to be insured by an insurer licensed to do business in Texas.

HB 3036 would take immediate effect if finally passed by a two-thirds record vote of the membership of each house.

**SUPPORTERS SAY:** HB 3036 would codify long-held policy of the state that the sale of service contracts by the manufacturer or seller of property does not constitute the business of insurance. This has been the position of both the Texas attorney general and the Texas Department of Insurance.

Service contracts, as defined under the bill, would primarily cover those sold to purchasers of motor vehicles. This type of service contract is similar to an extended warranty that provides repair, replacement or maintenance services on the vehicle for a specific period of time. Warranties are not considered to be insurance subject to TDI regulation. Clarifying that these other types of warranties are not insurance would clear up an anomaly in the law. Warranties on homes are considered insurance and are regulated by TDI.

Because there has been some confusion concerning the regulation of service contracts, they are not as widely used in Texas as they are in some other

states where they are clearly treated as warranties. Service contracts can be a economical option for consumers, since they allow purchasers to obtain low cost pre-paid service on their purchase and provide extended warranty on defects as well as normal wear and tear. If service contracts were regulated as insurance, they would be harder to obtain and would cost more, defeating the purpose behind these contracts, which is to save the consumer money.

**OPPONENTS SAY:** Regulating the sale of service contracts as insurance would provide additional safeguards to consumers.

**NOTES:** The companion bill, SB 1913 by Sibley, passed the Senate on April 29 and has been referred to the House Insurance Committee.