

Senate Bill No. 2075

Passed the Senate August 27, 1998

Secretary of the Senate

Passed the Assembly August 21, 1998

Chief Clerk of the Assembly

This bill was received by the Governor this ____ day
of _____, 1998, at ____ o'clock __M.

Private Secretary of the Governor



CHAPTER ____

An act to amend Section 9873 of, and to add Section 9855.05 to, the Business and Professions Code, and to amend Section 12741 of the Insurance Code, relating to service contracts, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 2075, Polanco. Appliance and electronics service contracts.

The Electronic and Appliance Repair Dealer Registration Law provides for regulation by the Bureau of Electronic and Appliance Repair of service contracts relating to the maintenance or repair of appliances and electronic sets, defined to include televisions, radios, computer systems, video equipment, photocopiers, facsimile machines, and other related products.

This bill would provide, on or after January 1, 2000, that service contracts subject to regulation under these provisions include service contracts offered or issued by a person or affiliate of a person whose business is regulated by the Public Utilities Commission if specified conditions are met.

Existing law provides for an initial registration fee and an annual registration renewal fee for service contractors of not more than \$75 for each place of business.

This bill would provide, on or after January 1, 2000, for an initial registration fee established by the director in an amount not to exceed the actual and direct costs associated with the regulation of service contractors, but in no event to exceed a specified amount. It would also state legislative intent that the amount of the annual registration renewal fee be evaluated and set by the Legislature.

Existing law provides for the regulation of home protection contracts by the Department of Insurance, but excludes from regulation service contracts, guarantees, or warranties covering a home appliance, system, or component, under certain circumstances.



This bill would exempt service contracts offered or issued by a person or affiliate of a person whose business is regulated by the Public Utilities Commission if specified conditions, including regulation by the Bureau of Electronic and Appliance Repair, are met.

The bill would also require the Department of Consumer Affairs, in consultation with the Department of Insurance and other entities, to conduct a study relating to home service contracts, and to report to the Legislature on or before May 1, 1999. The bill would appropriate the sum of \$50,000 from the Electronic and Appliance Repair Fund, a special fund, to the Department of Consumer Affairs for those purposes.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 9855.05 is added to the Business and Professions Code, to read:

9855.05. On and after January 1, 2000, for the purposes of this chapter, "service contract" also includes a service contract as described in subdivision (e) of Section 12741 of the Insurance Code.

SEC. 2. Section 9873 of the Business and Professions Code, as amended by Section 55 of Chapter 401 of the Statutes of 1997, is amended to read:

9873. The fees prescribed by this chapter shall be set by the director by regulation, according to the following schedule:

(a) (1) The initial registration fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than one hundred sixty-five dollars (\$165) for each place of business in this state. The initial registration fee for a service contractor is not more than seventy-five dollars (\$75) for each place of business in this state.

(2) The initial registration fee for a person who engages in business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than three hundred twenty-five dollars



(\$325) for each place of business in this state. The initial registration fee for a person who is a service contractor and engages in business as either an electronic repair industry service dealer or an appliance repair industry service dealer is not more than two hundred forty dollars (\$240) for each place of business in this state.

(3) The initial registration fee for a person who engages in both the electronic repair industry and the appliance repair industry as a service dealer and is a service contractor is not more than four hundred dollars (\$400) for each place of business in this state.

(4) On or after January 1, 2000, the initial registration fee for a service contractor described in subdivision (e) of Section 12741 of the Insurance Code shall be set by the director in an amount not to exceed the actual and direct costs associated with the regulation of those service contractors, but in no event more than fifty thousand dollars (\$50,000).

A service dealer or service contractor who does not operate a place of business in this state, but engages in the electronic repair industry, the appliance repair industry, or sells, issues, or administers service contracts in this state shall pay the registration fee specified herein as if he or she had a place of business in this state.

(b) (1) The annual registration renewal fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than one hundred sixty-five dollars (\$165) for each place of business in this state, if renewed prior to its expiration date. The annual registration renewal fee for a service contractor is seventy-five dollars (\$75) for each place of business in this state, if renewed prior to its expiration date.

(2) The annual renewal fee for a service dealer who engages in the business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than three hundred dollars (\$300) for each place of business in this state.

(3) The annual renewal fee for a service dealer who engages in the electronic repair industry and the



appliance repair industry and is a service contractor is not more than three hundred seventy-five dollars (\$375) for each place of business in this state.

(4) It is the intent of the Legislature that the amount of the annual registration renewal fee for a service contractor described in subdivision (e) of Section 12741 of the Insurance Code shall be evaluated and set by the Legislature.

A service dealer or service contractor who does not operate a place of business in this state, but who engages in the electronic repair industry, the appliance repair industry, or sells or issues service contracts in this state shall pay the registration fee specified herein as if he or she had a place of business in this state.

(c) The delinquency fee is an amount equal to 50 percent of the renewal fee for a license in effect on the date of renewal of the license, except as otherwise provided in Section 163.5.

This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2003, deletes or extends that date.

SEC. 3. Section 12741 of the Insurance Code, as amended by Section 2 of Chapter 523 of the Statutes of 1997, is amended to read:

12741. This part does not apply to:

(a) Performance guarantees or service contracts given by either the builder of a home or the manufacturer or seller of an appliance or other system or component, whether or not an identifiable charge is made for such guarantee or service contract.

(b) A service contract, guarantee, or warranty intending to guarantee or warrant the repairs or service of a home appliance, system or component, provided the service contract, guarantee or warranty is issued by a person who has sold, serviced, repaired or provided replacement of the appliance, system or component at the time of, or prior to issuance of the contract, guarantee or warranty; and, provided, further, that the person



issuing the service contract, guarantee, or warranty, does not engage in the business of a home protection company.

(c) The provider of a pest control service agreement pursuant to Section 8516 of the Business and Professions Code.

(d) A repair or maintenance program for a home electrical system, or a component of such a wiring system where the program is offered or issued by a person or affiliate of a person whose business is regulated by the Public Utilities Commission, provided that the repair or maintenance program is related to a service provided by the regulated person or affiliate of the regulated person, and that the regulated person, or affiliate of the regulated person, or parent company of the regulated person acts as the guarantor of any repair or maintenance program created under this subdivision regardless of whether the service is performed by the regulated person or an affiliate.

The company offering or issuing the program shall designate the company that will act as the guarantor of the program.

(e) On or after January 1, 2000, a service contract that is offered or issued by a person or affiliate of a person whose business is regulated by the Public Utilities Commission, provided that all of the following conditions are met:

(1) The regulated person, or affiliate of the regulated person, or parent company of the regulated person, acts as the guarantor of any service contract under this subdivision regardless of whether the service is performed by the regulated person or an affiliate.

(2) The service contract term is for one month or less.

(3) The person issuing or offering the service contract does not engage in the business of a home protection company.

The company offering or issuing the service contract shall designate the company that will act as the guarantor of the service contract.

(f) For purposes of subdivision (e), the person issuing or offering the service contract is subject to regulation by



the Bureau of Electronic and Appliance Repair of the Department of Consumer Affairs.

(g) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.

SEC. 4. (a) The Department of Consumer Affairs shall, in consultation with the Department of Insurance, representatives of the service contract and home warranty industries, and other interested parties, conduct an in-depth study of the evolving marketplace related to home service contracts and report its findings to the Legislature on or before May 1, 1999. The report shall include a recommendation regarding regulation of home service contracts and the appropriate form of regulation if regulation is determined to be necessary.

(b) For purposes of complying with the requirements of subdivision (a), the sum of fifty thousand dollars (\$50,000) is hereby appropriated from the Electronic and Appliance Repair Fund to the Department of Consumer Affairs.



Approved _____, 1998

Governor

