

AMENDED IN SENATE JUNE 25, 2013

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 480

Introduced by Assembly Member Ian Calderon

February 19, 2013

An act to amend Section 9855 of the Business and Professions Code, relating to service contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 480, as amended, Ian Calderon. Service contracts.

Existing law, the Electronic and Appliance Repair Dealer Registration Law, regulates service contracts, as defined, relating to maintenance or repair of, among other things, specified sets and appliances, and makes it unlawful for any person to act as a service contract administrator or a service contract seller without first registering with the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation. A violation of these provisions is deemed to be unlawfully transacting the business of insurance, and therefore subject to specified criminal penalties.

This bill would include in the definition of service contract a written contract for the performance of services relating to the maintenance, replacement, or repair of optical products, thereby making administrators and sellers of those contracts subject to registration with the bureau and other requirements of the act. By expanding the definition of service contract, the bill would expand the scope of a crime and, thus, would impose a state-mandated local program. *The bill would provide that a contract in which a consumer agrees to pay a provider of vision care*

services for a discount on optical products or contact lenses for a specified duration is not included in the definition of service contract. The bill would also define optical products for purposes of these provisions as prescription and nonprescription eyewear and not contact lenses of any kind.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 9855 of the Business and Professions
 2 Code is amended to read:
 3 9855. The definitions used in this section shall govern the
 4 construction and terms as used in this chapter:
 5 (a) “Service contract” means a contract in writing to perform,
 6 over a fixed period of time or for a specified duration, services
 7 relating to the maintenance, replacement, or repair of an electronic
 8 set or appliance, as defined by this chapter, and their accessories
 9 or of furniture, jewelry, lawn and garden equipment, power tools,
 10 fitness equipment, telephone equipment, small kitchen appliances
 11 and tools, optical products, or home health care products, and may
 12 include provisions for incidental payment of indemnity under
 13 limited circumstances, including, but not limited to, power surges,
 14 food spoilage, or accidental damage from handling. “Service
 15 contract” ~~does~~ shall not include a contract in writing to maintain
 16 structural wiring associated with the delivery of cable, telephone,
 17 or other broadband communications services. “Service contract”
 18 shall not include a contract in which a consumer agrees to pay a
 19 provider of vision care services for a discount on optical products
 20 or contact lenses for a specified duration.
 21 (b) “Service contract administrator” or “administrator” means
 22 a person who performs or arranges the collection, maintenance,
 23 or disbursement of moneys to compensate any party for claims or
 24 repairs pursuant to a service contract, and who also performs or

1 arranges any of the following activities on behalf of service contract
2 sellers:

3 (1) Providing service contract sellers with service contract forms.

4 (2) Participating in the adjustment of claims arising from service
5 contracts.

6 (3) Arranging on behalf of service contract sellers the insurance
7 required by Section 9855.2.

8 A service contract administrator shall not be an obligor on a
9 service contract unless all service contracts under which the service
10 contract administrator is obligated to perform are insured under a
11 service contract reimbursement insurance policy.

12 (c) (1) “Service contract seller” or “seller” means a person who
13 sells or offers to sell a service contract to a service contractholder,
14 including a person who is the obligor under a service contract sold
15 by the seller, manufacturer, or repairer of the product covered by
16 the service contract.

17 (2) “Service contract seller” or “seller” also means a third party,
18 including an obligor, who is not the seller, manufacturer, or repairer
19 of the product. However, a third party shall not be an obligor on
20 a service contract unless the obligor obtains a service contract
21 reimbursement insurance policy for all service contracts under
22 which the third party is obligated under the terms of a service
23 contract.

24 (3) “Service contract seller” or “seller” shall not include the
25 following:

26 (A) A bank or bank holding company, or the subsidiary or
27 affiliate of either, or a financial institution, licensed under state or
28 federal law, selling or offering to sell a service contract unless that
29 entity is financially and legally obligated under the terms of a
30 service contract.

31 (B) An electrical device manufacturer or electrical contractor
32 who constructs, installs, or services electrical devices, which
33 include any unit of an electrical system intended to carry electrical
34 energy as part of a building’s electrical system, including raceways,
35 conductors, invertors, conduit, wires, switches, or other similar
36 devices.

37 (d) “Service contractholder” means a person who purchases or
38 receives a service contract from a service contract seller.

39 (e) “Service contractor” means a service contract administrator
40 or a service contract seller.

1 (f) “Service contract reimbursement insurance policy” means
2 a policy of insurance issued by an insurer admitted to do business
3 in this state providing coverage for all obligations and liabilities
4 incurred by a service contract seller under the terms of the service
5 contracts sold in this state by the service contract seller to a service
6 contractholder. The service contract reimbursement insurance
7 policy shall either cover all service contracts sold or specifically
8 cover those contracts sold to residents of the State of California.

9 (g) “Obligor” is the entity financially and legally obligated under
10 the terms of a service contract.

11 (h) “Optical products” means prescription and nonprescription
12 eyewear. “Optical products” shall not include contact lenses of
13 any kind.

14 (i) The terms “consumer goods,” “manufacturer,” “retail seller,”
15 “retailer,” and “sale” shall have the same meanings ascribed to
16 them in Section 1791 of the Civil Code.

17 SEC. 2. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.