



## **National Home Service Contract Association**

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**Pennsylvania House Insurance Committee  
Rep. Tony DeLuca, Chair  
Re: HB 351  
June 5, 2008**

My name is Arthur J. Chartrand. I am regulatory counsel to the National Home Service Contract Association (NHSCA).

**We oppose HB 351 as both unnecessary and unworkable. We support the alternative SB 1254 which defines the service contract industry and leaves open the future option to regulate any service industry where the current consumer protection laws prove inadequate.**

The NHSCA is a non profit, trade organization serving home service contract providers and consumer interests throughout the United States. Our member companies service, repair or replace your household systems and appliances for one annual fee. Our members hire guaranteed, local and licensed Pennsylvania contractors to perform all work. We remain fully regulated, in compliance with and supportive of the many existing Pennsylvania consumer protection statutes and regulations

You can learn more about us and the home service contract industry by visiting our website [www.homeservicecontract.org](http://www.homeservicecontract.org). There you will find helpful consumer information, terminology explanations and helpful facts on our services.

HB 351 is a regulatory approach to the service contract industry which is essentially a *one size fits all* approach. Unfortunately, *one size does not fit* anyone well.

The service contract industry is made up of very diverse providers offering many distinctive products—nearly all of which have significantly different operational and service dynamics. Automobile service contracts have tremendously different traits and consumer issues than home service contracts on residential air conditioners and dishwashers. Both are very different from the function and claim issues surrounding retail *extended warranty* service contracts on new consumer goods. Communication companies and utilities offer many additional challenges and consumer issues.

The only thing all these service contracts have in common is that **they are not insurance**. That fact was decided conclusively by the National Association of Insurance Commissioners in 1995. I am a former counsel to the NAIC. I drafted the NAIC's major white papers on service contracts and served on the related committees until 1995 when they were disbanded.

Nearly all service contracts are technically not contracts of warranty either as most are serviced by providers that neither manufactured or sold the product serviced. As the NAIC recognized in 1995, these contracts belong to a wholly new industry—***the service contract industry***. [Note: Many service contract providers as well as real estate agents often refer to service contracts as a “warranty” but this is used generically and historically and not as a legal definition.]

The NAIC proposed a model law in 1995 to register service contract companies and provide some other nominal disclosures. While twenty two states adopted various forms of this model, most states in recent years have found such unnecessary and determined to simply define the industry and leave regulation under existing and extensive state consumer protection laws. Simply put, the industry has grown too diverse for a one size fits all approach. Existing consumer protection acts have never been found to be lacking in the oversight, protection or enforcement authority.

This bill came about because of a laudable initiative several years ago in Pennsylvania to regulate the home **health care** services market and to protect seniors. It was needed. However, draft bills would have also swept in regulation of home service contracts on appliances. Such was never intended nor desired. *Home health services* protect breathing human beings. *Home service contracts* cover household systems and appliances.

We have worked with Representative DeLuca and followed his well counseled advice to seek legislation to define our industry. We have done so. Neither the Department of Insurance nor the Attorney General's Office ever indicated additional regulatory powers were desired or needed. HB 351 was offered simply as an alternative bill should the state desire additional regulation and of such a bill could be agreed upon by this diverse industry. Neither motivations came to fruition. As a practical matter, no one will support a one size fits all bill and many large lobby factions such as the communication industries will defeat it or seek exclusions gutting any such bill of all merit.

**SB 1254 is both direct and proportional to the need and issue that gave rise to this issue. Define the service contract industry for what it is. Avoid future miscommunication or consumer misunderstanding. If problems arise in the automobile service contract or retail service contract industries, separate legislation tailored for these industries can be considered.**

**HB 351 should be withdrawn and SB 1254, which has virtually unanimous support, be enacted into law.**

Thank you.

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