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DATE: April 10, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
FINANCIAL SERVICES
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 549

RELATING TO: Warranty Companies

SPONSOR(S): Committee on Financial Services and Representative Ziebarth

STATUTE(S) AFFECTED: Sections 634.011, 634.121, 634.301, 634.312, 634.331, 634.406, F.S.

COMPANION BILL(S): SB 920 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

(1) FINANCIAL SERVICES YEAS 11 NAYS 0

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I. SUMMARY:

A warranty contract is a form of insurance that pays for repair, replacement, or purchase of a product which becomes defective. The Department of Insurance estimates that there are 35 motor vehicle service agreement companies, 15 home warranty associations, and 95 service warranty associations -- a total of 145 warranty associations in Florida. Warranty associations are subject to different solvency requirements because of the limited scope of the insurance provided.

CS/HB 549 amends Chapter 634, F.S., providing the following effects:

- Companies selling warranties on recreational vehicles (RVs) would have to be licensed motor vehicle service agreement companies.
- Motor vehicle service agreement companies would be able sell warranties on boat trailers.
- Motor vehicle service agreement companies would set the conditions of transfer on a service agreement.
- The term "listing period" is defined as the period of time residential property is listed for sale with a licensed real estate broker.
- A home warranty contract would set the conditions of transfer on a service agreement. The home warranty company could also charge an assignment fee of up to \$40.
- Home warranty associations would be able to offer a policy on a home for sale, during the period in which the house is for sale, and allow the consumer to pay the charge for the policy at the time the house is sold.
- Service warranty sellers could write more business without increasing their net assets.

This act would take effect on October 1, 1997.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

A warranty contract is a form of insurance that pays for repairs to goods after expiration of the manufacturer's warranty. The Department of Insurance estimates that there are 35 motor vehicle service agreement companies, 15 home warranty associations, and 95 service warranty associations -- a total of 145 warranty associations in Florida. Warranty associations offer only one type of specialized insurance and therefore differ from large property and casualty insurance companies which write many different kinds of insurance. These types of insurance are regulated by the Department of Insurance under Chapter 634, F.S., under three parts: motor vehicle service agreement companies (part I); home warranty associations (part II); and service warranty associations (part III). The contracts which these warranty associations issue are defined as follows:

Motor Vehicle Service Agreement: "...any contract or agreement indemnifying the service agreement holder for the motor vehicle listed on the service agreement and arising out of the ownership, operation, and use of the motor vehicle against loss caused by failure of any mechanical or other component part that does not function as it was originally intended" (Section 634.011(7), F.S.);

Home Warranty: "...any contract or agreement: offered in connection with the sale of residential property; a loan of \$5000 or more...secured by residential property...; [or] ...a home improvement of \$7,500 or more..." (Section 634.301(4), F.S.);

Service Warranty: "...any warranty, guaranty, extended warranty or extended guaranty, contract agreement, or other written promise to indemnify against the cost of repair or replacement of a consumer product in return for the payment of a segregated charge by the consumer..."(Section 634.401(14), F.S.).

Warranty associations are subject to different solvency requirements because of the limited scope of the insurance they provide. Property and casualty insurers must maintain surplus as to policyholders of at least \$4 million or a ratio of 10:1 gross written premiums to surplus. Warranty associations must maintain a smaller surplus of at least \$500,000 for motor vehicles and houses, and \$300,000 for services. The amount of gross written premiums in proportion to a warranty association's net assets is required to be 10:1 for motor vehicle service agreement companies, 6:1 for home warranty associations, and 7:1 for service warranty associations as warrantors (defined in section 634.401(16), F.S., as persons engaged in the sale of service warranties and deriving not more than 50 percent of its gross income from the sale of service warranties) and 5:1 as warranty sellers (defined in section 634.401(17), F.S., as persons engaged in the sale of service warranties and deriving more than 50 percent of its gross income from the sale of service warranties).

B. EFFECT OF PROPOSED CHANGES:

Part I of Chapter 634, F.S. -- Motor Vehicle Service Agreement Companies

The term "motor vehicle," would be redefined to include recreational vehicles and boat trailers for the purpose of writing motor vehicle service agreements. Warranty contracts

covering RVs are not currently addressed by law. CS/HB 549 would limit the issuance of such coverage to licensed motor vehicle service agreement companies while excluding companies which are not licensed motor vehicle service agreement companies and are currently issuing warranty contracts on RVs. Warranty contracts covering boat trailers are not currently available from motor vehicle service agreement companies because boat trailers do not fall into the definition of a "motor vehicle."

Motor vehicle service agreement companies would set the conditions of transfer on a service agreement. The transfer time period specified could not be less than 15 days after the date of sale or transfer of the vehicle. Consumers currently have the option to assign a motor vehicle service agreement to a subsequent retail purchaser before the expiration date of the service agreement.

Part II of Chapter 634, F.S. -- Home Warranty Associations

The term "listing period" is defined as the period of time residential property is listed for sale with a licensed real estate broker.

Home warranty contracts would be assignable transactions which must specify the conditions for the transfer of the contract. The transfer time period specified could not be less than 15 days after the date of sale or transfer of the home. A home warranty company could charge an assignment fee not to exceed \$40. Home warranty transfers would include, but not be limited to, the transfer from a home builder or home owner to a subsequent home buyer.

A home warranty contract may be issued for a residential property during the period of time that the property is for sale. A separately identifiable charge, not to exceed 15 percent of the annual premium charged for the home warranty, would apply to such a warranty contract. The charge would be due at the earlier of the end of the listing period or the date of sale. Coverage could not last more than 12 months. There are no current regulations pertaining to home warranty contracts for residential property which is for sale.

Part III of Chapter 634, F.S. -- Service Warranty Associations

A service warranty seller would be allowed to decrease the proportion of net assets it must hold against its gross written premiums in force from a ratio of 5:1 to 7:1.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

- a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

Not applicable.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Not applicable.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

The bill allows a service warranty association to write a greater volume of premiums without increasing its net assets.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

The bill requires companies currently issuing motor vehicle service agreements for recreational vehicles or boat trailers to be licensed as motor vehicle service agreement companies.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

Not applicable.

- (2) Who makes the decisions?

Not applicable.

(3) Are private alternatives permitted?

Not applicable.

(4) Are families required to participate in a program?

Not applicable.

(5) Are families penalized for not participating in a program?

Not applicable.

b. Does the bill directly affect the legal rights and obligations between family members?

Not applicable.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

Not applicable.

(2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

D. SECTION-BY-SECTION RESEARCH:

Part I of Chapter 634, F.S. -- Motor Vehicle Service Agreement Companies

Section 1. Amends s. 634.011, F.S., to redefine the term "motor vehicle," to include recreational vehicles (RVs) and boat trailers for the purpose of writing motor vehicle service agreements. As a result, only licensed motor vehicle service agreement companies would be able to write motor vehicle service agreements for RVs. In addition, only licensed motor vehicle service agreement companies would be able to write motor vehicle service agreements for boat trailers.

Section 2. Amends s. 634.121, F.S., to allow motor vehicle service agreement companies to specify the transfer conditions for a service agreement. Transfer periods could be no less than 15 days after the sale or transfer of a motor vehicle. As a result,

consumers would be held to the transfer terms set forth in a service agreement and not the current limitation of the service agreement expiration date.

Part II of Chapter 634, F.S. -- Home Warranty Associations

Section 3. Amends s. 634.301, F.S., to define the term "listing period" as the time a residential property is listed for sale with a licensed real estate broker, beginning on the listing date and ending when the property is sold, taken off the market, or the listing contract expires.

Section 4. Amends s. 634.312, F.S., to allow home warranty companies to specify the transfer conditions for a home warranty transfer. Transfer periods could be no less than 15 days after the sale or transfer of a home. As a result, consumers will be held to the transfer terms set forth in a service agreement and not the current limitation of the service agreement expiration date. Home warranty companies are also allowed to charge an assignment fee of no more than \$40. Home warranty assignments would include, but would not be limited to, the assignment from a home builder who purchased the home warranty to a subsequent home purchaser.

Section 5. Creates s. 634.331, F.S., to allow a home warranty contract to be issued for a residential property during the period of time that the property is for sale. Coverage could not exceed 12 months provided the warranty purchaser pays a separate charge equal to at least 15 percent of the annual premium charged for the home warranty. A customer could pay the charge for the coverage after the title to the property is transferred.

Part III of Chapter 634, F.S. -- Service Warranty Associations

Section 6. Amends s. 634.406, F.S., to allow a service warranty seller to decrease its gross written premiums in force from 5:1 to 7:1 against net assets. As a result, service warranty sellers will be able to write more premiums with the same amount of net assets.

Section 7. Provides that this act take effect on October 1, 1997.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Allowing consumers to postpone the payment of premiums for a home warranty contract during the time that a home is for sale could result in a higher number of unpaid claims.

Decreasing the amount of capital which service warranty companies are required to maintain for a particular amount of premiums may also increase the occurrence of unpaid claims.

Companies which have been writing service agreements for RVs will have to become licensed motor vehicle service agreement companies in order to continue writing RV service agreements.

2. Direct Private Sector Benefits:

Consumers who purchase both a watercraft and trailer, can purchase warranty contracts to cover both items from a motor vehicle service agreement company.

Service warranty associations would be able to write more premiums on a given amount of assets with the net asset ratios lowered.

3. Effects on Competition, Private Enterprise and Employment Markets:

CS/HB 549 would require companies issuing motor vehicle warranties for RVs to be licensed motor vehicle service agreement companies. The sale of RV service agreements by a company is currently legal since RVs do not fall under the jurisdiction of motor vehicle service agreement companies. The bill would also competitively strengthen licensed motor vehicle service agreement companies by allowing them to sell service agreements covering boat trailers. Motor vehicle service agreement companies are not currently able to sell boat trailer service agreements.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

B. REDUCTION OF REVENUE RAISING AUTHORITY:

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Financial Services adopted the bill as a Committee Substitute. The Committee Substitute differs from the original bill as follows:

- specifies a minimum motor vehicle service agreement transfer period of 15 days from the date of sale or transfer of a motor vehicle;
- defines the term "listing period;"
- specifies a minimum home warranty contract transfer period of 15 days from the date of sale or transfer of residential property, and authorizes home warranty companies to charge an assignment fee of not more than \$40;
- home warranty coverage of residential property which is for sale may not exceed 12 months provided that the warranty purchaser pays a separate charge for the list period coverage in an amount equal to at least 15 percent of the annual premium charged, and the charge would be due when the home is no longer listed; and,

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- a service warranty seller could not allow its gross written premiums in force to exceed a 7:1 ratio.

VII. SIGNATURES:

COMMITTEE ON FINANCIAL SERVICES:

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