

By the Committee on Insurance and Representatives Farkas,
Morronei, Jones, Pruitt, Sanderson and Rayson

1 A bill to be entitled
2 An act relating to service warranties; amending
3 s. 634.041, F.S.; providing requirements and
4 limitations as to certain funds and premiums
5 relating to unearned premium preserves;
6 amending s. 634.121, F.S.; revising certain
7 disclosure form requirements; amending s.
8 634.312, F.S.; requiring home warranty
9 contracts to contain a certain disclosure;
10 amending s. 634.401, F.S.; revising a
11 definition; amending s. 634.406, F.S.; revising
12 a contractual liability insurance requirement
13 for service warranty associations; providing an
14 effective date.

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16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Paragraph (b) of subsection (8) section
19 634.041, Florida Statutes, is amended to read:

20 634.041 Qualifications for license.--To qualify for
21 and hold a license to issue service agreements in this state,
22 a service agreement company must be in compliance with this
23 part, with applicable rules of the department, with related
24 sections of the Florida Insurance Code, and with its charter
25 powers and must comply with the following:

26 (8)

27 (b) A service agreement company does not have to
28 establish and maintain an unearned premium reserve if it
29 purchases and maintains contractual liability insurance in
30 accordance with the following:

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- 1 1. The insurance covers 100 percent of its claim
2 exposure and is obtained from an insurer approved by the
3 department which holds a certificate of authority to do
4 business within this state.
- 5 2. If the service agreement company does not meet its
6 contractual obligations, the contractual liability insurance
7 policy binds its issuer to pay or cause to be paid to the
8 service agreement holder all legitimate claims and
9 cancellation refunds for all service agreements issued by the
10 service agreement company while the policy was in effect.
11 This requirement also applies to those service agreements for
12 which no premium has been remitted to the insurer.
- 13 3. If the issuer of the contractual liability policy
14 is fulfilling the service agreements covered by the
15 contractual liability policy and the service agreement holder
16 cancels the service agreement, the issuer must make a full
17 refund of unearned premium to the consumer, subject to the
18 cancellation fee provisions of s. 634.121(5). The sales
19 representative and agent must refund to the contractual
20 liability policy issuer their unearned pro rata commission.
- 21 4. The policy may not be canceled, terminated, or
22 nonrenewed by the insurer or the service agreement company
23 unless a 90-day written notice thereof has been given to the
24 department by the insurer before the date of the cancellation,
25 termination, or nonrenewal.
- 26 5. The service agreement company must provide the
27 department with the claims statistics.
- 28
29 All funds or premiums remitted to an insurer by a motor
30 vehicle service agreement company under this part shall remain
31 in the care, custody, and control of the insurer and shall be

1 counted as an asset of the insurer. If the motor vehicle
2 service agreement company chooses to comply with this
3 paragraph but also maintains a reserve to pay claims, such
4 reserve shall only be considered an asset of the covered motor
5 vehicle service agreement company and may not be
6 simultaneously counted as an asset of any other entity.

7 Section 2. Subsections (9) and (12) of section
8 634.121, Florida Statutes, are amended to read:

9 634.121 Filing of forms, required procedures,
10 provisions.--

11 (9) Each service agreement form must contain in
12 conspicuous, boldfaced type any statement or clause that
13 places restrictions or limitations on the benefits offered or
14 disclose such restrictions or limitations in regular type in a
15 section of the service agreement containing a conspicuous,
16 boldfaced type heading.

17 (12) If a service agreement contains a rental car
18 provision, it must disclose the terms and conditions of this
19 benefit in conspicuous, boldfaced type or disclose such
20 restrictions or limitations in regular type in a section of
21 the service agreement containing a conspicuous, boldfaced type
22 heading.

23 Section 3. Subsection (6) is added to section 634.312,
24 Florida Statutes, to read:

25 634.312 Filing, approval of forms.--

26 (6) All home warranty contracts must state in
27 conspicuous, boldfaced type that the home warranty may not
28 provide listing period coverage free of charge.

29 Section 4. Subsection (14) of section 634.401, Florida
30 Statutes, is amended to read:

31 634.401 Definitions.--As used in this part, the term:

1 (14) "Service warranty" means any warranty, guaranty,
2 extended warranty or extended guaranty, maintenance service
3 contract greater than 1 year in length or which does not meet
4 the exemption in paragraph (a), contract agreement, or other
5 written promise to indemnify against the cost of repair or
6 replacement of a consumer product in return for the payment of
7 a segregated charge by the consumer; however:

8 (a) Maintenance service contracts written for 1 year
9 or less which do not contain provisions for indemnification
10 and which do not provide a discount to the consumer for any
11 combination of parts and labor in excess of 20 percent during
12 the effective period of such contract, motor vehicle service
13 agreements, transactions exempt under s. 624.125, and home
14 warranties subject to regulation under parts I and II of this
15 chapter are excluded from this definition; and

16 (b) The term "service warranty" does not include
17 service contracts between consumers and condominium
18 associations.

19 Section 5. The introductory paragraph of subsection
20 (3) of section 634.406, Florida Statutes, is amended to read:

21 634.406 Financial requirements.--

22 (3) An association will not be required to establish
23 an unearned premium reserve if it has purchased contractual
24 liability insurance which demonstrates to the satisfaction of
25 the department that 100 percent of its claim exposure is
26 covered by such policy. The contractual liability insurance
27 shall be obtained from an insurer that holds a certificate of
28 authority to do business within the state ~~or from an insurer~~
29 ~~approved by the department as financially capable of meeting~~
30 ~~the obligations incurred pursuant to the policy.~~ For the
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1 purposes of this subsection, the contractual liability policy
2 shall contain the following provisions:

3 Section 6. This act shall take effect upon becoming a
4 law.

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