

Amendment No. 1 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

The Committee on Insurance offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause

and insert:

Section 1. Subsection (8) of section 634.011, Florida Statutes, is amended to read:

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

(8) "Motor vehicle service agreement" or "service agreement" means 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, or any mechanical or other component part that does not function as it was originally intended; however, nothing in this part shall prohibit or affect the giving, free of charge, of the usual performance guarantees by manufacturers or dealers in connection with the sale of motor vehicles; and provided further, however, transactions exempt under s. 624.125 shall

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1 be expressly excluded from this definition and are exempt from
2 the provisions of this part. The term "motor vehicle service
3 agreement" includes any contract or agreement which provides:
4 (a) The coverage or protection defined in this
5 subsection and is issued or provided in conjunction with an
6 additive product applied to the motor vehicle which is the
7 subject of such contract or agreement; or
8 (b) For payment of vehicle protection expenses. For
9 purposes of this part:
10 1. "Vehicle protection expenses" means payments to the
11 holder of a service agreement in the event of the failure of a
12 vehicle protection product. Such payments may include an
13 amount clearly stated in the service agreement form and
14 unreimbursed expenses that may be incurred by the service
15 agreement holder only for:
16 a. Loss or damage to the vehicle as a result of the
17 failure of the vehicle protection product to prevent the theft
18 of the motor vehicle or to assist in the recovery of the
19 stolen motor vehicle, depending on the nature of the product;
20 or
21 b. Incidental expenses that may be incurred by the
22 service agreement holder, including but not limited to
23 temporary vehicle rental expenses, expenses for a replacement
24 vehicle that is at least the same year, make, and model of the
25 stolen motor vehicle, unless the agreement provides for a flat
26 fee reimbursement, or sales tax expenses or registration
27 expenses for a replacement vehicle.
28
29 Payment under sub-sub-paragraph a. or b. shall exclude the
30 cash value of the stolen vehicle and not duplicate any
31 benefits or expenses paid to the service agreement holder by

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1 the insurer providing comprehensive motor vehicle insurance
2 coverage on the stolen motor vehicle.

3 2. "Vehicle protection product" means a product or
4 system that is installed or applied to a motor vehicle or
5 designed to prevent the theft of the motor vehicle or assist
6 in the recovery of the stolen motor vehicle.

7 Section 2. Subsection (1) of section 634.041, Florida
8 Statutes, is amended, and subsection (11) is added to said
9 section, to read:

10 634.041 Qualifications for license.--To qualify for
11 and hold a license to issue service agreements in this state,
12 a service agreement company must be in compliance with this
13 part, with applicable rules of the department, with related
14 sections of the Florida Insurance Code, and with its charter
15 powers and must comply with the following:

16 (1) Any service agreement company applying for a
17 license must be a solvent corporation formed under the laws of
18 this state or of another state or district of the United
19 States and must meet minimum requirements under this section.

20 (11) A service agreement company offering service
21 agreements providing vehicle protection expenses may only meet
22 the requirements for this part by maintaining contractual
23 liability insurance in accordance with s. 634.041(8)(b), which
24 insurance must be issued by an insurance company not
25 affiliated with the service agreement company, unless the
26 insurance company had issued a contractual liability insurance
27 policy to a service agreement company offering service
28 agreements providing vehicle protection expenses on or before
29 January 1, 2002. Service agreements providing vehicle
30 protection expenses may only be sold to a service agreement
31 holder that has in-force comprehensive motor vehicle insurance

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1 coverage for the vehicle to be covered by the service
2 agreement.

3 Section 3. Paragraph (c) is added to subsection (1) of
4 section 634.121, Florida Statutes, to read:

5 634.121 Filing of forms, required procedures,
6 provisions.--

7 (1) A service agreement form or related form may not
8 be issued or used in this state unless it has been filed with
9 and approved by the department. Upon application for a
10 license, the department shall require the applicant to submit
11 for approval each brochure, pamphlet, circular, form letter,
12 advertisement, or other sales literature or advertising
13 communication addressed or intended for distribution. The
14 department shall disapprove any document which is untrue,
15 deceptive, or misleading or which contains misrepresentations
16 or omissions of material facts.

17 (c) The Department may disapprove any service
18 agreement form providing vehicle protection expenses that does
19 not clearly indicate the method for calculating the benefit to
20 be paid or provided to the service agreement holder. All
21 service agreement forms providing vehicle protection expenses
22 shall clearly indicate the term of the service agreement,
23 whether new or used cars are eligible for the vehicle
24 protection product, and that the service agreement holder may
25 not make any claim against the Florida Insurance Guarantee
26 Association for vehicle protection expenses. The service
27 agreement shall be provided to a service agreement holder on a
28 form that only provides vehicle protection expenses. A
29 service agreement form providing vehicle protection expenses
30 must state that the service agreement holder must have
31 in-force at the time of loss comprehensive motor vehicle

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1 insurance coverage as a condition precedent to requesting
2 payment of vehicle protection expenses.

3 Section 4. Subsection (5) of section 634.191, Florida
4 Statutes, is amended to read:

5 634.191 Grounds for discretionary refusal, suspension,
6 or revocation of license or appointment of salespersons.--The
7 department may, in its discretion, deny, suspend, revoke, or
8 refuse to renew or continue the license or appointment of any
9 salesperson if it finds that as to the salesperson any one or
10 more of the following applicable grounds exist under
11 circumstances for which such denial, suspension, revocation,
12 or refusal is not mandatory under s. 634.181:

13 (5) If, in the conduct of business under the license
14 or appointment, the salesperson has engaged in unfair methods
15 of competition or in unfair or deceptive acts or practices, as
16 such methods, acts, or practices are or may be defined under
17 this part ~~part IX of chapter 626~~, or has otherwise shown
18 herself or himself to be a source of injury or loss to the
19 public or detrimental to the public interest.

20 Section 5. This act shall take effect upon becoming a
21 law.

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24 ===== T I T L E A M E N D M E N T =====

25 And the title is amended as follows:

26 On page 1, lines 4 through 7

27 remove: all of said lines

28

29 and insert:

30 the definition of motor vehicle service

31 agreement; amending s. 634.041, F.S., revising

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1 the definition of "corporation", requiring
2 service agreement companies to maintain
3 contractual liability insurance and limiting
4 those to whom vehicle protection products may
5 be sold; amending s. 634.121, F.S.; providing
6 service agreement form requirements; amending
7 s. 634.191, F.S.; revising the definition of
8 unfair competition or unfair or deceptive acts
9 or practices for purposes of disciplinary
10 actions against salesperson; providing an
11 effective date.

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