

By the Committee on Banking and Insurance; and Senator Villalobos

311-1985-02

1                                   A bill to be entitled

2           An act relating to motor vehicle service

3           agreements; amending s. 634.011, F.S.; revising

4           the definition of the term "motor vehicle

5           service agreement" to include contracts

6           covering vehicle-protection products; defining

7           the terms "vehicle-protection expenses" and

8           "vehicle-protection product"; amending s.

9           634.041, F.S.; redefining the term

10          "corporation", requiring service agreement

11          companies to maintain contractual liability

12          insurance and limiting those to whom vehicle

13          protection products may be sold; amending s.

14          634.121, F.S.; providing service agreement form

15          requirements; amending s. 634.191, F.S.;

16          revising the definition of unfair competition

17          or unfair or deceptive acts or practices for

18          purposes of disciplinary actions against

19          salespersons; providing an effective date.

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

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23           Section 1. Subsection (8) of section 634.011, Florida

24 Statutes, is amended to read:

25           634.011 Definitions.--As used in this part, the term:

26           (8) "Motor vehicle service agreement" or "service

27 agreement" means any contract or agreement indemnifying the

28 service agreement holder for the motor vehicle listed on the

29 service agreement and arising out of the ownership, operation,

30 and use of the motor vehicle against loss caused by failure of

31 any mechanical or other component part, or any mechanical or

1 other component part that does not function as it was  
2 originally intended; however, nothing in this part shall  
3 prohibit or affect the giving, free of charge, of the usual  
4 performance guarantees by manufacturers or dealers in  
5 connection with the sale of motor vehicles; and provided  
6 further, however, transactions exempt under s. 624.125 shall  
7 be expressly excluded from this definition and are exempt from  
8 the provisions of this part. The term "motor vehicle service  
9 agreement" includes any contract or agreement which provides:

10 (a) The coverage or protection defined in this  
11 subsection and is issued or provided in conjunction with an  
12 additive product applied to the motor vehicle which is the  
13 subject of such contract or agreement; or

14 (b) For payment of vehicle protection product. For  
15 purposes of this paragraph:

16 1. "Vehicle protection expenses" means payments to the  
17 holder of a service agreement in the event of the failure of a  
18 vehicle protection product. Such payments may include  
19 unreimbursed expenses that may be incurred by the service  
20 agreement holder only for:

21 a. Loss or damage to the vehicle as a result of the  
22 failure of the vehicle protection product to prevent the theft  
23 of the motor vehicle or to assist in the recovery of the  
24 stolen motor vehicle; or

25 b. Incidental expenses that may be incurred by the  
26 service agreement holder, including expenses for a replacement  
27 vehicle, temporary vehicle rental expenses, or sales tax  
28 expenses or registration expenses for a replacement vehicle.

29 2. "Vehicle protection product" means a product or  
30 system that is installed or applied to a motor vehicle and

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1 designed to prevent the theft of the motor vehicle or assist  
2 in the recovery of the stolen motor vehicle.

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4 Payment under this paragraph excludes the cash value of the  
5 stolen vehicle and may not duplicate any benefits or expenses  
6 paid to the service agreement holder by the insurer providing  
7 comprehensive motor vehicle insurance coverage on the stolen  
8 motor vehicle.

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

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

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

22 (11) A service agreement company offering vehicle  
23 protection products that provide vehicle protection expenses  
24 may meet the requirements for this part only by maintaining  
25 contractual liability insurance in accordance with s.  
26 634.041(8)(b). Vehicle protection products that provide  
27 vehicle protection expenses may be sold only to a service  
28 agreement holder that has in-force comprehensive motor vehicle  
29 insurance coverage for the vehicle to be covered by the  
30 vehicle protection product.

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

3 634.121 Filing of forms, required procedures,  
4 provisions.--

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

15 (c) The department may disapprove any service  
16 agreement form providing for payment of vehicle protection  
17 expenses which does not clearly indicate the method for  
18 calculating the benefit to be paid to the service agreement  
19 holder. All service agreement forms providing vehicle  
20 protection expenses must clearly indicate the term of the  
21 service agreement and whether new or used cars are eligible  
22 for the vehicle protection product, and must be provided to a  
23 service agreement holder on a form that only provides vehicle  
24 protection expenses. A service agreement form providing  
25 vehicle protection expenses must state that the service  
26 agreement holder must have in-force at the time of loss,  
27 comprehensive motor vehicle insurance coverage, as a condition  
28 precedent to requesting payment of vehicle protection  
29 expenses.

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

1           634.191 Grounds for discretionary refusal, suspension,  
2 or revocation of license or appointment of salespersons.--The  
3 department may, in its discretion, deny, suspend, revoke, or  
4 refuse to renew or continue the license or appointment of any  
5 salesperson if it finds that as to the salesperson any one or  
6 more of the following applicable grounds exist under  
7 circumstances for which such denial, suspension, revocation,  
8 or refusal is not mandatory under s. 634.181:

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

16           Section 5. This act shall take effect July 1, 2002.

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1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                   COMMITTEE SUBSTITUTE FOR  
3                   Senate Bill 2102  
4 Clarifies that motor vehicle theft prevention coverage may  
5 only be sold on a vehicle that is covered by a comprehensive  
6 motor vehicle insurance policy.  
7 Provides that the vehicle theft prevention coverage would not  
8 take the place of regular theft coverage under a comprehensive  
9 motor vehicle insurance policy, but would supplement such  
10 insurance.  
11 Mandates that motor vehicle service agreement companies that  
12 intend to offer theft prevention coverage must meet financial  
13 solvency requirements through the purchase of contractual  
14 liability insurance, rather than maintaining reserves.  
15 Grants to the Department of Insurance authority to disapprove  
16 motor vehicle service agreement forms that do not contain  
17 certain specific information and clear benefits.  
18 Deletes an out-of-date reference to the unfair trade practices  
19 act.  
20 Provides that a motor vehicle service agreement company  
21 applying for a license from the Department of Insurance must  
22 be a solvent corporation which may be formed under the laws of  
23 another state or district of the United States.  
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