

By Senator Atwater

25-1338A-03

See HB 769

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A bill to be entitled
An act relating to motor vehicle service agreements; amending s. 634.011, F.S.; revising criteria within a definition of a motor vehicle service agreement relating to preestablished flat amounts; providing a limitation; amending s. 634.121, F.S.; providing for disapproval of certain service agreement forms for not indicating the preestablished flat amount payable under the agreement; providing an effective date.

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

Section 1. Paragraph (b) of 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. Transactions exempt under s. 624.125 are expressly excluded from this definition and are exempt from the provisions of this part.

1 The term "motor vehicle service agreement" includes any
2 contract or agreement that provides:
3 (b) For payment of vehicle protection expenses.
4 1.a. "Vehicle protection expenses" means a
5 preestablished flat amount payable for the loss of or damage
6 to a vehicle or expenses incurred by the service agreement
7 holder for loss or damage to a covered vehicle, including, but
8 not limited to, applicable deductibles under a motor vehicle
9 insurance policy; temporary vehicle rental expenses; expenses
10 for a replacement vehicle that is at least the same year,
11 make, and model of the stolen motor vehicle; sales taxes or
12 registration fees for a replacement vehicle that is at least
13 the same year, make, and model of the stolen vehicle; or other
14 incidental expenses specified in the agreement.
15 b. "Vehicle protection product" means a product or
16 system installed or applied to a motor vehicle or designed to
17 prevent the theft of the motor vehicle or assist in the
18 recovery of the stolen motor vehicle.
19 2. Vehicle protection expenses shall be payable in the
20 event of loss or damage to the vehicle as a result of the
21 failure of the vehicle protection product to prevent the theft
22 of the motor vehicle or to assist in the recovery of the
23 stolen motor vehicle. Vehicle protection expenses covered
24 under the agreement shall be clearly stated in the service
25 agreement form, unless the agreement provides for the payment
26 of a preestablished flat amount, in which case the service
27 agreement form shall clearly identify such amount.
28 3. Motor vehicle service agreements providing for the
29 payment of vehicle protection expenses shall either:
30 a. Reimburse a service agreement holder for the
31 following expenses, at a minimum: deductibles applicable to

1 comprehensive coverage under the service agreement holder's
2 motor vehicle insurance policy; temporary vehicle rental
3 expenses; sales taxes and registration fees on a replacement
4 vehicle that is at least the same year, make, and model of the
5 stolen motor vehicle; and the difference between the benefits
6 paid to the service agreement holder for the stolen vehicle
7 under the service agreement holder's comprehensive coverage
8 and the actual cost of a replacement vehicle that is at least
9 the same year, make, and model of the stolen motor vehicle; or
10 b. Pay a preestablished flat amount to the service
11 agreement holder.

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13 Payments shall not duplicate any benefits or expenses paid to
14 the service agreement holder by the insurer providing
15 comprehensive coverage under a motor vehicle insurance policy
16 covering the stolen motor vehicle; however, the payment of
17 vehicle protection expenses at a preestablished flat amount of
18 \$7,500 or less does not duplicate any benefits or expenses
19 payable under any comprehensive motor vehicle insurance
20 policy.

21 Section 2. Paragraph (c) of subsection (1) of section
22 634.121, Florida Statutes, is amended to read:

23 634.121 Filing of forms, required procedures,
24 provisions.--

25 (1) A service agreement form or related form may not
26 be issued or used in this state unless it has been filed with
27 and approved by the department. Upon application for a
28 license, the department shall require the applicant to submit
29 for approval each brochure, pamphlet, circular, form letter,
30 advertisement, or other sales literature or advertising
31 communication addressed or intended for distribution. The

1 department shall disapprove any document which is untrue,
2 deceptive, or misleading or which contains misrepresentations
3 or omissions of material facts.

4 (c) The department shall disapprove any service
5 agreement form providing vehicle protection expenses which
6 does not clearly either indicate the method for calculating
7 the benefit to be paid or provided to the service agreement
8 holder or the preestablished flat amount payable pursuant to
9 the terms of the service agreement. All service agreement
10 forms providing vehicle protection expenses shall clearly
11 indicate the term of the service agreement, whether new or
12 used cars are eligible for the vehicle protection product, and
13 that the service agreement holder may not make any claim
14 against the Florida Insurance Guarantee Association for
15 vehicle protection expenses. The service agreement shall be
16 provided to a service agreement holder on a form that provides
17 only vehicle protection expenses. A service agreement form
18 providing vehicle protection expenses must state that the
19 service agreement holder must have in force at the time of
20 loss comprehensive motor vehicle insurance coverage as a
21 condition precedent to requesting payment of vehicle
22 protection expenses.

23 Section 3. This act shall take effect upon becoming a
24 law.

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