

By the Committee on Commerce, Economic Opportunities, and Consumer Services; and Senator Atwater

310-2371-03

1 A bill to be entitled
2 An act relating to motor vehicle service
3 agreements; amending s. 634.011, F.S.; revising
4 criteria within a definition of a motor vehicle
5 service agreement relating to preestablished
6 flat amounts; providing a limitation; amending
7 s. 634.041, F.S.; providing requirements of a
8 service agreement company to offer service
9 agreements for vehicle protection; amending s.
10 634.121, F.S.; providing for disapproval of
11 certain service agreement forms for not
12 indicating the preestablished flat amount
13 payable under the agreement; 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) of section
19 634.011, Florida Statutes, is amended to read:

20 634.011 Definitions.--As used in this part, the term:

21 (8) "Motor vehicle service agreement" or "service
22 agreement" means any contract or agreement indemnifying the
23 service agreement holder for the motor vehicle listed on the
24 service agreement and arising out of the ownership, operation,
25 and use of the motor vehicle against loss caused by failure of
26 any mechanical or other component part, or any mechanical or
27 other component part that does not function as it was
28 originally intended; however, nothing in this part shall
29 prohibit or affect the giving, free of charge, of the usual
30 performance guarantees by manufacturers or dealers in
31 connection with the sale of motor vehicles. Transactions

1 exempt under s. 624.125 are expressly excluded from this
2 definition and are exempt from the provisions of this part.

3 The term "motor vehicle service agreement" includes any
4 contract or agreement that provides:

5 (b) For payment of vehicle protection expenses.

6 1.a. "Vehicle protection expenses" means a
7 preestablished flat amount payable for the loss of or damage
8 to a vehicle or expenses incurred by the service agreement
9 holder for loss or damage to a covered vehicle, including, but
10 not limited to, applicable deductibles under a motor vehicle
11 insurance policy; temporary vehicle rental expenses; expenses
12 for a replacement vehicle that is at least the same year,
13 make, and model of the stolen motor vehicle; sales taxes or
14 registration fees for a replacement vehicle that is at least
15 the same year, make, and model of the stolen vehicle; or other
16 incidental expenses specified in the agreement.

17 b. "Vehicle protection product" means a product or
18 system installed or applied to a motor vehicle or designed to
19 prevent the theft of the motor vehicle or assist in the
20 recovery of the stolen motor vehicle.

21 2. Vehicle protection expenses shall be payable in the
22 event of loss or damage to the vehicle as a result of the
23 failure of the vehicle protection product to prevent the theft
24 of the motor vehicle or to assist in the recovery of the
25 stolen motor vehicle. Vehicle protection expenses covered
26 under the agreement shall be clearly stated in the service
27 agreement form, unless the agreement provides for the payment
28 of a preestablished flat amount, in which case the service
29 agreement form shall clearly identify such amount.

30 3. Motor vehicle service agreements providing for the
31 payment of vehicle protection expenses shall either:

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

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15 Payments shall not duplicate any benefits or expenses paid to
16 the service agreement holder by the insurer providing
17 comprehensive coverage under a motor vehicle insurance policy
18 covering the stolen motor vehicle; however, the payment of
19 vehicle protection expenses at a preestablished flat amount of
20 \$5,000 or less does not duplicate any benefits or expenses
21 payable under any comprehensive motor vehicle insurance
22 policy.

23 Section 2. Subsection (11) of section 634.041, Florida
24 Statutes, is amended to read:

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

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1 (11)(a) A service agreement company offering service
2 agreements providing vehicle protection expenses may meet the
3 requirements for this part only by maintaining contractual
4 liability insurance covering 100 percent of its vehicle
5 protection claim exposure in accordance with paragraph (8)(b),
6 which insurance must be issued by an insurance company not
7 affiliated with the service agreement company, unless the
8 insurance company had issued a contractual liability insurance
9 policy to a service agreement company on or before January 1,
10 2002. Service agreements providing vehicle protection
11 expenses may be sold only to a service agreement holder that
12 has in-force comprehensive motor vehicle insurance coverage
13 for the vehicle to be covered by the service agreement.

14 (b) Notwithstanding any other requirement of this
15 part, a service agreement company maintaining an unearned
16 premium reserve on all service agreements in accordance with
17 paragraph (8)(a) may offer service agreements providing
18 vehicle protection expenses if it maintains contractual
19 liability insurance only on all service agreements providing
20 vehicle protection expenses and continues to maintain the
21 50-percent reserve for all service agreements not providing
22 vehicle protection expenses. A service agreement company
23 maintaining contractual liability insurance for all service
24 agreements providing vehicle protection expenses and the
25 50-percent reserve for all other service agreements must, in
26 the service agreement register as required under s.
27 634.136(4), distinguish between insured service agreements
28 providing vehicle protection expenses and service agreements
29 not providing vehicle protection expenses.

30 Section 3. Paragraph (c) of subsection (1) of section
31 634.121, Florida Statutes, is amended to read:

1 634.121 Filing of forms, required procedures,
2 provisions.--

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

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

1 Section 4. This act shall take effect upon becoming a
2 law.

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4 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
5 COMMITTEE SUBSTITUTE FOR
6 Senate Bill 2278

7 The committee substitute is different from the original bill
8 by:

- 9 1) Reducing, from \$7,500 to \$5,000, the amount that may be
10 provided by a vehicle protection service agreement that
is not considered duplicative of benefits from a
comprehensive motor vehicle insurance policy;
- 11 2) Requiring a motor vehicle service agreement company
12 wishing to offer vehicle protection service agreements to
cover those agreements with contractual liability
13 insurance; and
- 14 3) Allowing a motor vehicle service agreement company that
15 maintains a 50-percent reserve on all other types of
16 motor vehicle service agreements to offer vehicle
17 protection service agreements if it covers those
18 agreements with contractual liability insurance.
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