

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Troutman offered the following:

Substitute Amendment for Amendment (550721) (with title amendment)

Between lines 75 and 76, insert:

Section 4. 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

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28 by manufacturers or dealers in connection with the sale of motor
29 vehicles. Transactions exempt under s. 624.125 are expressly
30 excluded from this definition and are exempt from the provisions
31 of this part. The term "motor vehicle service agreement"
32 includes any contract or agreement that provides:

33 (b) For payment of vehicle protection expenses.

34 1.a. "Vehicle protection expenses" means a preestablished
35 flat amount payable for the loss of or damage to a vehicle or
36 expenses incurred by the service agreement holder for loss or
37 damage to a covered vehicle, including, but not limited to,
38 applicable deductibles under a motor vehicle insurance policy;
39 temporary vehicle rental expenses; expenses for a replacement
40 vehicle that is at least the same year, make, and model of the
41 stolen motor vehicle; sales taxes or registration fees for a
42 replacement vehicle that is at least the same year, make, and
43 model of the stolen vehicle; or other incidental expenses
44 specified in the agreement.

45 b. "Vehicle protection product" means a product or system
46 installed or applied to a motor vehicle or designed to prevent
47 the theft of the motor vehicle or assist in the recovery of the
48 stolen motor vehicle.

49 2. Vehicle protection expenses shall be payable in the
50 event of loss or damage to the vehicle as a result of the
51 failure of the vehicle protection product to prevent the theft
52 of the motor vehicle or to assist in the recovery of the stolen
53 motor vehicle. Vehicle protection expenses covered under the
54 agreement shall be clearly stated in the service agreement form,
55 unless the agreement provides for the payment of a

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56 preestablished flat amount, in which case the service agreement
57 form shall clearly identify such amount.

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

60 a. Reimburse a service agreement holder for the following
61 expenses, at a minimum: deductibles applicable to comprehensive
62 coverage under the service agreement holder's motor vehicle
63 insurance policy; temporary vehicle rental expenses; sales taxes
64 and registration fees on a replacement vehicle that is at least
65 the same year, make, and model of the stolen motor vehicle; and
66 the difference between the benefits paid to the service
67 agreement holder for the stolen vehicle under the service
68 agreement holder's comprehensive coverage and the actual cost of
69 a replacement vehicle that is at least the same year, make, and
70 model of the stolen motor vehicle; or

71 b. Pay a preestablished flat amount to the service
72 agreement holder.

73
74 Payments shall not duplicate any benefits or expenses paid to
75 the service agreement holder by the insurer providing
76 comprehensive coverage under a motor vehicle insurance policy
77 covering the stolen motor vehicle. However, the payment of
78 vehicle protection expenses at a preestablished flat amount of
79 up to \$5,000 does not duplicate any benefits or expenses payable
80 under any comprehensive motor vehicle insurance policy.

81 Section 5. Subsection (11) of section 634.041, Florida
82 Statutes, is amended to read:

83 634.041 Qualifications for license.--To qualify for and
84 hold a license to issue service agreements in this state, a

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85 service agreement company must be in compliance with this part,
86 with applicable rules of the department, with related sections
87 of the Florida Insurance Code, and with its charter powers and
88 must comply with the following:

89 (11)(a) A service agreement company offering a service
90 agreement ~~agreements~~ providing vehicle protection expenses may
91 meet the requirements for this part only by maintaining a
92 contractual liability insurance policy covering 100 percent of
93 its vehicle protection claim exposure in accordance with
94 paragraph (8)(b), which insurance must be issued by an insurance
95 company not affiliated with the service agreement company,
96 unless the insurance company had issued a contractual liability
97 insurance policy to a service agreement company on or before
98 January 1, 2002. Service agreements providing vehicle protection
99 expenses may be sold only to a service agreement holder that has
100 in-force comprehensive motor vehicle insurance coverage for the
101 vehicle to be covered by the service agreement.

102 (b) Notwithstanding any other requirement of this part, a
103 service agreement company maintaining an unearned premium
104 reserve on all service agreements in accordance with paragraph
105 (8)(a) may offer service agreements providing vehicle protection
106 expenses if it maintains contractual liability insurance only on
107 all service agreements providing vehicle protection expenses and
108 continues to maintain the 50-percent reserve for all service
109 agreements not providing vehicle protection expenses. A service
110 agreement company maintaining contractual liability insurance
111 for all service agreements providing vehicle protection expenses
112 and the 50-percent reserve for all other service agreements
113 shall, in the service agreement register as required pursuant to

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114 s. 634.136(4), distinguish between insured service agreements
115 providing vehicle protection expenses and service agreements not
116 providing vehicle protection expenses.

117 Section 6. Paragraph (c) of subsection (1) of section
118 634.121, Florida Statutes, is amended to read:

119 634.121 Filing of forms, required procedures,
120 provisions.--

121 (1) A service agreement form or related form may not be
122 issued or used in this state unless it has been filed with and
123 approved by the department. Upon application for a license, the
124 department shall require the applicant to submit for approval
125 each brochure, pamphlet, circular, form letter, advertisement,
126 or other sales literature or advertising communication addressed
127 or intended for distribution. The department shall disapprove
128 any document which is untrue, deceptive, or misleading or which
129 contains misrepresentations or omissions of material facts.

130 (c) The department shall disapprove any service agreement
131 form providing vehicle protection expenses unless it ~~which does~~
132 ~~not~~ clearly indicates either ~~indicate~~ the method for calculating
133 the benefit to be paid or provided to the service agreement
134 holder or the preestablished flat amount payable pursuant to the
135 terms of the service agreement. All service agreement forms
136 providing vehicle protection expenses shall clearly indicate the
137 term of the service agreement, whether new or used cars are
138 eligible for the vehicle protection product, and that the
139 service agreement holder may not make any claim against the
140 Florida Insurance Guarantee Association for vehicle protection
141 expenses. The service agreement shall be provided to a service
142 agreement holder on a form that provides only vehicle protection

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143 expenses. A service agreement form providing vehicle protection
144 expenses must state that the service agreement holder must have
145 in force at the time of loss comprehensive motor vehicle
146 insurance coverage as a condition precedent to requesting
147 payment of vehicle protection expenses.

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

150 Remove line(s) 19, and insert:
151 exemptions under certain circumstances; amending s. 634.011,
152 F.S.; revising a definition; amending s. 634.041, F.S.; revising
153 a qualification for licensure as a service agreement company;
154 authorizing a service agreement company to offer service
155 agreements providing vehicle protection expenses under certain
156 circumstances; providing requirements; amending s. 634.121,
157 F.S.; revising a provision authorizing the Department of
158 Financial Services to disapprove certain service agreement forms
159 to include a reference to payment of certain preestablished flat
160 amounts; providing an