

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Troutman offered the following:

Amendment (with directory and title amendments)

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 by manufacturers or dealers in connection with the sale of motor

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

32 (b) For payment of vehicle protection expenses.

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

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

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

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

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

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

72
73 Payments shall not duplicate any benefits or expenses paid to
74 the service agreement holder by the insurer providing
75 comprehensive coverage under a motor vehicle insurance policy
76 covering the stolen motor vehicle. However, the payment of
77 vehicle protection expenses at a preestablished flat amount of
78 up to \$5,000 does not duplicate any benefits or expenses payable
79 under any comprehensive motor vehicle insurance policy.

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

82 634.041 Qualifications for license.--To qualify for and
83 hold a license to issue service agreements in this state, a
84 service agreement company must be in compliance with this part,
85 with applicable rules of the department, with related sections

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86 of the Florida Insurance Code, and with its charter powers and
87 must comply with the following:

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

101 (b) Notwithstanding any other requirement of this part, a
102 service agreement company maintaining an unearned premium
103 reserve on all service agreements in accordance with paragraph
104 (8)(a) may offer service agreements providing vehicle protection
105 expenses if it maintains contractual liability insurance only on
106 all service agreements providing vehicle protection expenses and
107 continues to maintain the 50-percent reserve for all service
108 agreements not providing vehicle protection expenses. A service
109 agreement company maintaining contractual liability insurance
110 for all service agreements providing vehicle protection expenses
111 and the 50-percent reserve for all other service agreements
112 shall, in the service agreement register as required pursuant to
113 s. 634.136(4), distinguish between insured service agreements

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114 providing vehicle protection expenses and service agreements not
115 providing vehicle protection expenses.

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

118 634.121 Filing of forms, required procedures,
119 provisions.--

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

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

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

147
148 ===== T I T L E A M E N D M E N T =====

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