

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 721      Warranty Association Regulation  
**SPONSOR(S):** Llorente, Planes, and others  
**TIED BILLS:**                      **IDEN./SIM. BILLS:**

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<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1) Insurance Regulation (Sub)	8Y, 0N	Cheek	Schulte
2) Insurance		Cheek	Schulte
3)			
4)			
5)			

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**SUMMARY ANALYSIS**

Under chapter 634, F.S., affiliates of domestic companies administering warranty policies (e.g., motor service vehicle agreements, home warranties, or service warranties) to residents out of the state of Florida must be licensed by the Office of Insurance Regulation (formerly Department of Insurance).

The bill creates an exemption from licensure for such affiliates if they do not issue, market, or cause to be marketed, warranty policies to residents of Florida and do not administer policies that were originally issued to a Florida resident who then moved out of state.

The bill also provides that if the Office of Insurance Regulation determines, after notice and an opportunity for a hearing, the affiliate is not complying with the conditions of the exemption, the affiliate will be subject to licensure. The bill also provides that the domestic insurer or its wholly owned licensed insurer must be the direct obligor of all service and warranty agreements issued by the affiliate or must issue a contractual liability insurance policy.

The bill does not appear to have a state or local fiscal impact.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |                             |   |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

#### B. EFFECT OF PROPOSED CHANGES:

Under chapter 634, F.S., affiliates of Florida-domiciled ("domestic") companies administering warranty policies (e.g., motor service vehicle agreements, home warranties, or service warranties) to residents out of the state of Florida must be licensed by the Office of Insurance Regulation. Until January 7, 2003, this function was handled by the Department of Insurance. See "Comments" below.

The bill creates an exemption from licensure for such affiliates if they do not issue, market, or cause to be marketed, warranty policies to residents of Florida and do not administer policies that were originally issued to a Florida resident who then moved out of state. **The bill also provides that the domestic insurer or its wholly owned licensed insurer must be the direct obligor of all service and warranty agreements issued by the affiliate or must issue a contractual liability insurance policy.**

The bill also provides that if the **Office of Insurance Regulation** determines, after notice and an opportunity for a hearing, the affiliate is not complying with the conditions of the exemption, the affiliate will be subject to licensure.

#### C. SECTION DIRECTORY:

Section 1: Amends section 634.031, F.S., relating to the creation of an exemption from licensure for motor vehicle service agreements.

Section 2: Amends section 634.031, F.S., relating to creation of an exemption from licensure for home warranties.

Section 3: Amends section 634.031, F.S., relating to the creation of an exemption from licensure for service warranties.

Section 4: Provides that the act takes effect upon becoming a law.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

There may be a small fiscal impact from license fees that will no longer be collected from such affiliates.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill creates an exemption from licensure for affiliates of Florida-domiciled companies if they do not issue, market, or cause to be marketed warranty policies to residents of the state of Florida and do not administer policies that were originally issued to a Florida resident who then moved out of state.

The exemption removes the regulation of affiliates administering with out-of-state policies, which could be an economic incentive for companies considering locating their administration offices in Florida.

D. FISCAL COMMENTS:

The bill does not appear to have a state or local fiscal impact.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Effective January 7, 2003, functions that were previously under the Department of Insurance became the responsibility of the Department of Financial Services, the Financial Services Commission, and the Office of Insurance Regulation. See s. 20.121, F.S. The functions covered by this bill became the responsibility of the Office of Insurance Regulation. Provisions added by this bill need to be conformed to the new regulatory structure. An amendment containing the appropriate corrective language is available for consideration.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The Subcommittee on Insurance Regulation adopted two amendments:

- **Amendment 1** changes the “department” reference to “Office of Insurance Regulation”. Ch. 2002-404, L.O.F., reassigns the statutory duties of the Comptroller and Treasurer to the newly created Department of Financial Services, headed by the CFO, and to the Financial Services Commission, whose members are the Governor and Cabinet, effective January 7, 2003. This is a technical amendment to appropriately assign the regulatory duties to the Office of Insurance Regulation.]
- **Amendment 2** provides that the domestic insurer or its wholly owned licensed insurer must be the direct obligor of all service and warranty agreements issued by the affiliate or must issue a contractual liability insurance policy.