

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 769 Motor Vehicle Service Agreements
SPONSOR(S): Troutman, Ross and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 2278

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Insurance Regulation (Sub)	9Y, 0N	Cheek	Schulte
2) Insurance		Cheek	Schulte
3) Commerce			
4)			
5)			

SUMMARY ANALYSIS

The 2002 Legislature authorized entities licensed under chapter 634, F.S. as automobile service warranty companies to sell products called "vehicle protection products." These products, such as window etching and car alarms, come with a defined benefit that is paid to a customer if the device fails and the automobile is stolen.

Current law authorizes two types of benefits, a "flat fee" payment and a "calculated" payment. A flat fee sets a flat amount, for example \$5,000, that is paid to the consumer if the car is stolen and not returned. The calculated benefit pays for the costs incurred by a consumer, including the difference between the cost to get another car and what the insurance company pays; taxes, tag, and title fees on the replacement car; car rental cost; deductible payment amounts; and other out-of-pocket expenses.

The bill provides that a motor vehicle service agreement company may either pay vehicle protection expenses as a specific, pre-established, flat-benefit amount *or* in an amount equal to the customer's expenses not covered by insurance.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0769a.in.doc
DATE: April 8, 2003

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:

Background

Motor Vehicle Service Agreement Companies

The Insurance Code authorizes a motor vehicle service agreement company to guarantee or warrant a consumer’s motor vehicle and its component parts for any mechanical failure that arises out of the use or operation of the vehicle after the expiration of the manufacturer’s warranty. These companies must be licensed by the Department of Insurance (now the Office of Insurance Regulation of the Financial Services Commission) and must submit forms for approval.

As a solvency safeguard, chapter 634, F.S., requires motor vehicle service agreement companies to maintain reserves consisting of assets equal to a minimum of 50 percent of unearned gross written premium on each service agreement, and a ratio of gross written premium to net assets of ten to one. The department (office) must examine these companies every 3 years. A motor vehicle service agreement company may reinsure 100 percent of its service contract obligations in satisfaction of the reserve requirement.

Motor vehicle service agreements are typically marketed through automobile dealerships, and the dealerships may obtain an agent license to market motor vehicle service agreements. The employees of the automobile dealership may sell motor vehicle service agreements under the dealership’s license.

Vehicle Protection Products

According to the National Vehicle Protection Association, a trade association of companies providing benefits to purchasers of vehicle protection products through the sale of warranties, there are three basic types of warranty benefits offered to cover the loss of a vehicle due to the failure of a vehicle protection product to deter the theft of a vehicle following proper installation. They include:

- A flat-fee amount selected by the purchaser;
- The cost of a current-year vehicle of the same make and model (after deducting comprehensive loss insurance coverage), including sales tax, registration fees, rental car, and deductibles; or
- The cost of a same-year vehicle of the same make and model (after deducting comprehensive loss insurance coverage), including sales tax, registration fees, rental car, and deductibles.

These products are subject to limitations and exceptions regarding, among other things, initial registration through the dealer, claims procedures, and maintenance of comprehensive loss coverage.

Vehicle Protection Products

The 2002 Legislature authorized entities licensed under chapter 634, F.S., as an automobile service warranty company to sell products called "vehicle protection products." These products, like window etching and car alarms, come with a defined benefit that is paid to customers if the device fails and their automobile is stolen.

Current law authorizes two types of benefits, a flat-fee payment, and a calculated payment. A flat-fee benefit sets a flat amount, for example \$5,000, that is paid to the consumer if the car is stolen and not returned. The calculated benefit pays for the costs incurred by a consumer, including the difference between the cost to get another car and what the insurance company pays; taxes, tag, and title fees on the replacement car; car rental cost; deductible payment amounts; and other out of pocket expenses. Specifically,

Chapter 634.011(8)b.3.a., F.S. – *Definitions*, provides that motor vehicle service agreements providing for the payment of vehicle protection expenses shall reimburse a service agreement holder for certain expenses.

Chapter 634.011(8)b.3.b., F.S. – *Definitions*, provides that motor vehicle service agreements providing for the payment of vehicle protection expenses shall pay a preestablished flat amount to the service agreement holder.

Major Changes from Current Law

The bill clarifies that a motor vehicle service agreement company may either pay an amount equal to the customers expenses not covered by insurance or vehicle protection expenses as a pre-established, flat benefit. The bill provides that the payment of vehicle protection expenses at a pre-established, flat amount **up to \$5,000** does not duplicate benefits or expenses payable under any comprehensive motor vehicle insurance policy. This is aimed at prohibiting double-recovery expenses.

The bill also requires that all motor vehicle service agreement companies that offer vehicle protection service agreements to maintain contractual liability insurance covering 100% of its vehicle protection claim exposure provided that all obligations under all vehicle protection service agreements are fully insured. The bill also allows a servicing company to continue to maintain reserves on all non-vehicle protection service agreements, such as a repair or replace service agreements, and to insure vehicle protection service agreements.

C. SECTION DIRECTORY:

Section 1: Amends section 634.011, F.S., relating to definitions.

Section 2: Amends section 634.121, F.S., relating to filing of forms, required procedures, and provisions.

Section 3: Provides that the act takes effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

There does not appear to be 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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The Subcommittee on Insurance Regulation adopted two amendments:

- **Amendment 1** changes the vehicle protection expense “flat fee” benefit to up to \$5,000. [This amendment better conforms the bill to standard vehicle protection industry practices, and the amended benefit threshold is consistent with vehicle protection expense agreements in use today.]
- **Amendment 2** requires that all motor vehicle service agreement companies that offer vehicle protection service agreements to maintain contractual liability insurance covering 100 percent of its vehicle protection claim exposure provided all obligations under all vehicle protection service agreements are fully insured. Current law allows motor vehicle service agreements. This amendment allows a servicing company to continue to maintain reserves on all non-vehicle

protection service agreements, such as a repair or replace service agreements, and to insure vehicle protection service agreements.