



CHAMBER ACTION

The Committee on Insurance recommends the following:

Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to motor vehicle service agreements; amending s. 634.011, F.S.; revising criteria within a definition of a motor vehicle service agreement relating to preestablished flat amounts; providing a limitation; amending s. 634.041, F.S.; revising service agreement company licensure qualifications; providing a limited exception to certain liability insurance requirements under certain circumstances; amending s. 634.121, F.S.; providing for disapproval of certain service agreement forms for not indicating the preestablished flat amount payable under the agreement; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. 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:



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28 (8) "Motor vehicle service agreement" or "service
29 agreement" means any contract or agreement indemnifying the
30 service agreement holder for the motor vehicle listed on the
31 service agreement and arising out of the ownership, operation,
32 and use of the motor vehicle against loss caused by failure of
33 any mechanical or other component part, or any mechanical or
34 other component part that does not function as it was originally
35 intended; however, nothing in this part shall prohibit or affect
36 the giving, free of charge, of the usual performance guarantees
37 by manufacturers or dealers in connection with the sale of motor
38 vehicles. Transactions exempt under s. 624.125 are expressly
39 excluded from this definition and are exempt from the provisions
40 of this part. The term "motor vehicle service agreement"
41 includes any contract or agreement that provides:

42 (b) For payment of vehicle protection expenses.

43 1.a. "Vehicle protection expenses" means a preestablished
44 flat amount payable for the loss of or damage to a vehicle or
45 expenses incurred by the service agreement holder for loss or
46 damage to a covered vehicle, including, but not limited to,
47 applicable deductibles under a motor vehicle insurance policy;
48 temporary vehicle rental expenses; expenses for a replacement
49 vehicle that is at least the same year, make, and model of the
50 stolen motor vehicle; sales taxes or registration fees for a
51 replacement vehicle that is at least the same year, make, and
52 model of the stolen vehicle; or other incidental expenses
53 specified in the agreement.

54 b. "Vehicle protection product" means a product or system
55 installed or applied to a motor vehicle or designed to prevent



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56 the theft of the motor vehicle or assist in the recovery of the
57 stolen motor vehicle.

58 2. Vehicle protection expenses shall be payable in the
59 event of loss or damage to the vehicle as a result of the
60 failure of the vehicle protection product to prevent the theft
61 of the motor vehicle or to assist in the recovery of the stolen
62 motor vehicle. Vehicle protection expenses covered under the
63 agreement shall be clearly stated in the service agreement form,
64 unless the agreement provides for the payment of a
65 preestablished flat amount, in which case the service agreement
66 form shall clearly identify such amount.

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

69 a. Reimburse a service agreement holder for the following
70 expenses, at a minimum: deductibles applicable to comprehensive
71 coverage under the service agreement holder's motor vehicle
72 insurance policy; temporary vehicle rental expenses; sales taxes
73 and registration fees on a replacement vehicle that is at least
74 the same year, make, and model of the stolen motor vehicle; and
75 the difference between the benefits paid to the service
76 agreement holder for the stolen vehicle under the service
77 agreement holder's comprehensive coverage and the actual cost of
78 a replacement vehicle that is at least the same year, make, and
79 model of the stolen motor vehicle; or

80 b. Pay a preestablished flat amount to the service
81 agreement holder.

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83 Payments shall not duplicate any benefits or expenses paid to
 84 the service agreement holder by the insurer providing
 85 comprehensive coverage under a motor vehicle insurance policy
 86 covering the stolen motor vehicle, however, the payment of
 87 vehicle protection expenses at a preestablished flat amount of
 88 up to \$5,000 does not duplicate any benefits or expenses payable
 89 under any comprehensive motor vehicle insurance policy.

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

92 634.041 Qualifications for license.--To qualify for and
 93 hold a license to issue service agreements in this state, a
 94 service agreement company must be in compliance with this part,
 95 with applicable rules of the department, with related sections
 96 of the Florida Insurance Code, and with its charter powers and
 97 must comply with the following:

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



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111 (b) Notwithstanding any other requirement of this part, a
112 service agreement company maintaining an unearned premium
113 reserve on all service agreements in accordance with paragraph
114 (8)(a) may offer service agreements providing vehicle protection
115 expenses if it maintains contractual liability insurance only on
116 all service agreements providing vehicle protection expenses and
117 continues to maintain the 50 percent reserve for all service
118 agreements not providing vehicle protection expenses. A service
119 agreement company maintaining contractual liability insurance
120 for all service agreements providing vehicle protection expenses
121 and the 50 percent reserve for all other service agreements
122 shall distinguish, in the service agreement register required
123 pursuant to s. 634.136(4), between insured service agreements
124 providing vehicle protection expenses and service agreements not
125 providing vehicle protection expenses.

126 Section 3. Paragraph (c) of subsection (1) of section
127 634.121, Florida Statutes, is amended to read:

128 634.121 Filing of forms, required procedures,
129 provisions.--

130 (1) A service agreement form or related form may not be
131 issued or used in this state unless it has been filed with and
132 approved by the department. Upon application for a license, the
133 department shall require the applicant to submit for approval
134 each brochure, pamphlet, circular, form letter, advertisement,
135 or other sales literature or advertising communication addressed
136 or intended for distribution. The department shall disapprove
137 any document which is untrue, deceptive, or misleading or which
138 contains misrepresentations or omissions of material facts.



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139 (c) The department shall disapprove any service agreement
140 form providing vehicle protection expenses which does not
141 clearly indicate either the method for calculating the benefit
142 to be paid or provided to the service agreement holder or the
143 preestablished flat amount payable pursuant to the terms of the
144 service agreement. All service agreement forms providing vehicle
145 protection expenses shall clearly indicate the term of the
146 service agreement, whether new or used cars are eligible for the
147 vehicle protection product, and that the service agreement
148 holder may not make any claim against the Florida Insurance
149 Guarantee Association for vehicle protection expenses. The
150 service agreement shall be provided to a service agreement
151 holder on a form that provides only vehicle protection expenses.
152 A service agreement form providing vehicle protection expenses
153 must state that the service agreement holder must have in force
154 at the time of loss comprehensive motor vehicle insurance
155 coverage as a condition precedent to requesting payment of
156 vehicle protection expenses.

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