

CHAMBER ACTION

1 The Committee on Insurance recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to warranty associations; creating s.
7 634.1815, F.S.; providing conditions under which a
8 salesperson of a motor vehicle service agreement company
9 may rebate his or her commission; creating s. 634.3205,
10 F.S.; providing conditions under which a sales
11 representative of a home warranty association may rebate
12 his or her commission; amending s. 634.406, F.S.; providing
13 conditions under which a service warranty association is
14 exempt from certain premium reserve and liability insurance
15 requirements and may allow premiums to exceed certain
16 limits; creating s. 634.4225, F.S.; providing conditions
17 under which a sales representative of a service warranty
18 association may rebate his or her commission; providing an
19 effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

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23 Section 1. Section 634.1815, Florida Statutes, is created
24 to read:

25 634.1815 Rebating; when allowed.--

26 (1) No salesperson shall rebate any portion of his or her
27 commission except as follows:

28 (a) The rebate shall be available to all consumers in the
29 same actuarial class.

30 (b) The rebate shall be in accordance with a rebating
31 schedule filed by the salesperson with the service agreement
32 company issuing the service agreement to which the rebate
33 applies. The service agreement company shall maintain a copy of
34 all rebating schedules for a period of 3 years.

35 (c) The rebating schedule shall be uniformly applied so
36 all consumers who purchase the same service agreement through
37 the salesperson for the same coverage shall receive the same
38 percentage rebate.

39 (d) The rebate schedule shall be prominently displayed in
40 public view in the salesperson's place of business, and a copy
41 shall be made available to consumers on request at no charge.

42 (e) The age, sex, place of residence, race, nationality,
43 ethnic origin, marital status, or occupation of the consumer
44 shall not be used in determining the percentage of the rebate or
45 whether a rebate is available.

46 (2) No rebate shall be withheld or limited in amount based
47 on factors which are unfairly discriminatory.

48 (3) No rebate shall be given which is not reflected on the
49 rebate schedule.

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50 (4) No rebate shall be refused or granted based upon the
51 purchase of or failure to purchase collateral business.

52 Section 2. Section 634.3205, Florida Statutes, is created
53 to read:

54 634.3205 Rebating; when allowed.--

55 (1) No sales representative shall rebate any portion of
56 his or her commission except as follows:

57 (a) The rebate shall be available to all consumers in the
58 same actuarial class.

59 (b) The rebate shall be in accordance with a rebating
60 schedule filed by the sales representative with the home
61 warranty association issuing the home warranty to which the
62 rebate applies. The home warranty association shall maintain a
63 copy of all rebating schedules for a period of 3 years.

64 (c) The rebating schedule shall be uniformly applied so
65 all consumers who purchase the same home warranty through the
66 sales representative for the same coverage shall receive the
67 same percentage rebate.

68 (d) The rebate schedule shall be prominently displayed in
69 public view in the sales representative's place of business, and
70 a copy shall be made available to consumers on request at no
71 charge.

72 (e) The age, sex, place of residence, race, nationality,
73 ethnic origin, marital status, or occupation of the consumer
74 shall not be used in determining the percentage of the rebate or
75 whether a rebate is available.

76 (2) No rebate shall be withheld or limited in amount based
77 on factors which are unfairly discriminatory.

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78 (3) No rebate shall be given which is not reflected on the
79 rebate schedule.

80 (4) No rebate shall be refused or granted based upon the
81 purchase of or failure to purchase collateral business.

82 Section 3. Subsection (8) is added to section 634.406,
83 Florida Statutes, to read:

84 634.406 Financial requirements.--

85 (8) An association licensed under this part and holding no
86 other license under part I or part II of this chapter is not
87 required to establish an unearned premium reserve or maintain
88 contractual liability insurance and may allow its premiums to
89 exceed the ratio to net assets limitation of this section if the
90 association complies with the following:

91 (a) The association or, if the association is a direct or
92 indirect wholly owned subsidiary of a parent corporation, its
93 parent corporation has, and maintains at all times, a minimum
94 net worth of at least \$100 million and provides the office with
95 the following:

96 1. A copy of the association's annual audited financial
97 statements or the audited consolidated financial statements of
98 the association's parent corporation, prepared by an independent
99 certified public accountant in accordance with generally
100 accepted accounting principles, which clearly demonstrate the
101 net worth of the association or its parent corporation to be
102 \$100 million and a quarterly written certification to the office
103 that such entity continues to maintain the net worth required
104 under this paragraph.

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105 2. The association's, or its parent corporation's, Form
 106 10K, Form 10Q, or Form 20F as filed with the United States
 107 Securities and Exchange Commission or such other documents
 108 required to be filed with a recognized stock exchange, which
 109 shall be provided on a quarterly and annual basis within 10 days
 110 after the last date each such report must be filed with the
 111 Securities and Exchange Commission, the National Association of
 112 Security Dealers Automated Quotation system, or other recognized
 113 stock exchange.

114
 115 Failure to timely file the documents required under this
 116 paragraph may, at the discretion of the office, subject the
 117 association to suspension or revocation of its license under
 118 this part. An association or parent corporation demonstrating
 119 compliance with subparagraph 1. and subparagraph 2. must
 120 maintain outstanding debt obligations, if any, rated in the top
 121 four rating categories by a recognized rating service.

122 (b) If the net worth of a parent corporation is used to
 123 satisfy the net worth provisions of paragraph (a), the following
 124 provisions must be met:

125 1. The parent corporation must guarantee all service
 126 warranty obligations of the association, wherever written, on a
 127 form approved in advance by the office. No cancellation,
 128 termination, or modification of the guarantee shall become
 129 effective unless the parent corporation provides the office
 130 written notice at least 90 days before the effective date of the
 131 cancellation, termination, or modification and the office
 132 approves the request in writing. Prior to the effective date of

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133 cancellation, termination, or modification of the guarantee, the
 134 association must demonstrate to the satisfaction of the office
 135 compliance with all applicable provisions of this part,
 136 including whether the association will meet the requirements of
 137 this section by the purchase of contractual liability insurance,
 138 establishing required reserves, or other method allowed under
 139 this section. If the association or parent corporation does not
 140 demonstrate to the satisfaction of the office compliance with
 141 all applicable provisions of this part, it shall immediately
 142 cease writing new and renewal business upon the effective date
 143 of the cancellation, termination, or modification.

144 2. The association must maintain at all times net assets
 145 of at least \$750,000.

146 Section 4. Section 634.4225, Florida Statutes, is created
 147 to read:

148 634.4225 Rebating; when allowed.--

149 (1) No sales representative shall rebate any portion of
 150 his or her commission except as follows:

151 (a) The rebate shall be available to all consumers in the
 152 same actuarial class.

153 (b) The rebate shall be in accordance with a rebating
 154 schedule filed by the sales representative with the association
 155 issuing the service warranty to which the rebate applies. The
 156 association shall maintain a copy of all rebating schedules for
 157 a period of 3 years.

158 (c) The rebating schedule shall be uniformly applied so
 159 all consumers who purchase the same service warranty through the

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160 sales representative for the same coverage shall receive the
161 same percentage rebate.

162 (d) The rebate schedule shall be prominently displayed in
163 public view in the sales representative's place of business, and
164 a copy shall be made available to consumers on request at no
165 charge.

166 (e) The age, sex, place of residence, race, nationality,
167 ethnic origin, marital status, or occupation of the consumer
168 shall not be used in determining the percentage of the rebate or
169 whether a rebate is available.

170 (2) No rebate shall be withheld or limited in amount based
171 on factors which are unfairly discriminatory.

172 (3) No rebate shall be given which is not reflected on the
173 rebate schedule.

174 (4) No rebate shall be refused or granted based upon the
175 purchase of or failure to purchase collateral business.

176 Section 5. This act shall take effect upon becoming a law.