

1 A bill to be entitled
 2 An act relating to warranty associations; creating s.
 3 634.1815, F.S.; providing conditions under which a
 4 salesperson of a motor vehicle service agreement company
 5 may rebate his or her commission; creating s. 634.3205,
 6 F.S.; providing conditions under which a sales
 7 representative of a home warranty association may rebate
 8 his or her commission; amending s. 634.406, F.S.; providing
 9 conditions under which a service warranty association is
 10 exempt from certain premium reserve and liability insurance
 11 requirements and may allow premiums to exceed certain
 12 limits; creating s. 634.4225, F.S.; providing conditions
 13 under which a sales representative of a service warranty
 14 association may rebate his or her commission; providing an
 15 effective date.

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

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 19 Section 1. Section 634.1815, Florida Statutes, is created
 20 to read:

21 634.1815 Rebating; when allowed.--

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

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

26 (b) The rebate shall be in accordance with a rebating
 27 schedule filed by the salesperson with the service agreement
 28 company issuing the service agreement to which the rebate

29 applies. The service agreement company shall maintain a copy of
 30 all rebating schedules for a period of 3 years.

31 (c) The rebating schedule shall be uniformly applied so
 32 all consumers who purchase the same service agreement through
 33 the salesperson for the same coverage shall receive the same
 34 percentage rebate.

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

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

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

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

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

48 Section 2. Section 634.3205, Florida Statutes, is created
 49 to read:

50 634.3205 Rebating; when allowed.--

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

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

55 (b) The rebate shall be in accordance with a rebating
 56 schedule filed by the sales representative with the home

57 warranty association issuing the home warranty to which the
58 rebate applies. The home warranty association shall maintain a
59 copy of all rebating schedules for a period of 3 years.

60 (c) The rebating schedule shall be uniformly applied so
61 all consumers who purchase the same home warranty through the
62 sales representative for the same coverage shall receive the
63 same percentage rebate.

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

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

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

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

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

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

80 634.406 Financial requirements.--

81 (8) An association licensed under this part and holding no
82 other license under part I or part II of this chapter is not
83 required to establish an unearned premium reserve or maintain
84 contractual liability insurance and may allow its premiums to

85 exceed the ratio to net assets limitation of this section if the
86 association complies with the following:

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

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

101 2. The association's, or its parent corporation's, Form
102 10K, Form 10Q, or Form 20F as filed with the United States
103 Securities and Exchange Commission or such other documents
104 required to be filed with a recognized stock exchange, which
105 shall be provided on a quarterly and annual basis within 10 days
106 after the last date each such report must be filed with the
107 Securities and Exchange Commission, the National Association of
108 Security Dealers Automated Quotation system, or other recognized
109 stock exchange.

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111 Failure to timely file the documents required under this
112 paragraph may, at the discretion of the office, subject the

113 association to suspension or revocation of its license under
114 this part. An association or parent corporation demonstrating
115 compliance with subparagraph 1. and subparagraph 2. must
116 maintain outstanding debt obligations, if any, rated in the top
117 four rating categories by a recognized rating service.

118 (b) If the net worth of a parent corporation is used to
119 satisfy the net worth provisions of paragraph (a), the following
120 provisions must be met:

121 1. The parent corporation must guarantee all service
122 warranty obligations of the association, wherever written, on a
123 form approved in advance by the office. No cancellation,
124 termination, or modification of the guarantee shall become
125 effective unless the parent corporation provides the office
126 written notice at least 90 days before the effective date of the
127 cancellation, termination, or modification and the office
128 approves the request in writing. Prior to the effective date of
129 cancellation, termination, or modification of the guarantee, the
130 association must demonstrate to the satisfaction of the office
131 compliance with all applicable provisions of this part,
132 including whether the association will meet the requirements of
133 this section by the purchase of contractual liability insurance,
134 establishing required reserves, or other method allowed under
135 this section. If the association or parent corporation does not
136 demonstrate to the satisfaction of the office compliance with
137 all applicable provisions of this part, it shall immediately
138 cease writing new and renewal business upon the effective date
139 of the cancellation, termination, or modification.

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

142 Section 4. Section 634.4225, Florida Statutes, is created
143 to read:

144 634.4225 Rebating; when allowed.--

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

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

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

154 (c) The rebating schedule shall be uniformly applied so
155 all consumers who purchase the same service warranty through the
156 sales representative for the same coverage shall receive the
157 same percentage rebate.

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

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

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

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

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

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