

Bill No. CS for SB 1848

Amendment No. \_\_\_\_ Barcode 980112

CHAMBER ACTION

Senate

House

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Senator Bennett moved the following amendment:

**Senate Amendment (with title amendment)**

On page 2, line 16, through  
page 6, line 18, delete those lines

and insert:

Section 2. Subsection (5) is added to section 634.271,  
Florida Statutes, to read:

634.271 Civil remedy.--

(5) The penalty provisions in ss. 520.12 and 521.006,  
as well as the statutory penalty minimum recovery of \$500 in  
subsection (1), do not apply to any violation of this part or  
chapters 520 and 521 relating to or in connection with the  
issuance, purchase, or sale, before April 23, 2002, of a  
vehicle protection product or contract, agreement, or product  
that provides for payment of vehicle protection expenses as  
defined in s. 634.011.

Section 3. Section 634.3205, Florida Statutes, is  
created to read:

634.3205 Rebating; when allowed.--

Bill No. CS for SB 1848

Amendment No. \_\_\_\_ Barcode 980112

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

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

5           (b) The rebate shall be in accordance with a rebating  
6 schedule filed by the sales representative with the home  
7 warranty association issuing the home warranty to which the  
8 rebate applies. The home warranty association shall maintain a  
9 copy of all rebating schedules for a period of 3 years.

10          (c) The rebating schedule shall be uniformly applied  
11 in that all consumers who purchase the same home warranty  
12 through the sales representative for the same coverage receive  
13 the same percentage rebate.

14          (d) The rebate schedule is prominently displayed in  
15 public view in the sales representative's place of doing  
16 business and a copy is available to consumers on request at no  
17 charge.

18          (e) The age, sex, place of residence, race,  
19 nationality, ethnic origin, marital status, or occupation of  
20 the consumer is not used in determining the percentage of the  
21 rebate or whether a rebate is available.

22          (2) No rebate shall be withheld or limited in amount  
23 based on factors that are unfairly discriminatory.

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

26          (4) No rebate shall be refused or granted based upon  
27 the purchase or failure to purchase collateral business.

28           Section 4. Subsection (8) is added to section 634.406,  
29 Florida Statutes, to read:

30           634.406 Financial requirements.--

31           (8) An association licensed under this part, and

Bill No. CS for SB 1848

Amendment No. \_\_\_\_ Barcode 980112

1 holding no other license under part I or part II of chapter  
2 634, is not required to establish an unearned premium reserve  
3 or maintain contractual liability insurance and may allow its  
4 premiums to exceed the ratio to net assets limitation of this  
5 section if the association complies with the following:

6 (a) The association or, if the association is a direct  
7 or indirect wholly owned subsidiary of a parent corporation,  
8 its parent corporation has, and maintains at all times, a  
9 minimum net worth of at least \$100 million and provides the  
10 office with the following:

11 1. A copy of the association's annual audited  
12 financial statements or the audited consolidated financial  
13 statements of the association's parent, prepared by an  
14 independent certified public accountant in accordance with  
15 generally accepted accounting principles, which clearly  
16 demonstrate the net worth of the association or its parent  
17 corporation to be \$100 million and a quarterly written  
18 certification to the office that such entity continues to  
19 maintain the net worth required under this paragraph; and

20 2. The association's or its parent corporation's Form  
21 10-K, Form 10-Q, or Form 20-F as filed with the United States  
22 Securities and Exchange Commission or such other documents as  
23 are required to be filed with a recognized stock exchange,  
24 which shall be provided on a quarterly and annual basis within  
25 10 days after the last date each such report must be filed  
26 with the Securities and Exchange Commission, the National  
27 Association of Security Dealers Automated Quotation system, or  
28 other recognized stock exchange.

29  
30 Failure to timely file the documents required under this  
31 paragraph may, at the discretion of the office, subject the

Bill No. CS for SB 1848

Amendment No. \_\_\_\_ Barcode 980112

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

6 (b) If the net worth of a parent corporation is used  
7 to satisfy the net worth provisions of paragraph (a), the  
8 following provisions must be met:

9 1. The parent corporation must guarantee all service  
10 warranty obligations of the association, wherever written, on  
11 a form approved in advance by the office. No cancellation,  
12 termination, or modification of the guarantee shall become  
13 effective unless the parent corporation provides the office  
14 written notice at least 90 days before the effective date of  
15 the cancellation, termination, or modification and the office  
16 approves the request in writing. Prior to the effective date  
17 of cancellation, termination, or modification of the  
18 guarantee, the association must demonstrate to the  
19 satisfaction of the office compliance with all applicable  
20 provisions of this part, including whether the association  
21 will meet the requirements of this section by the purchase of  
22 contractual liability insurance, establishing required  
23 reserves, or other method allowed under this section. If the  
24 association or parent corporation does not demonstrate to the  
25 satisfaction of the office compliance with all applicable  
26 provisions of this part, it shall immediately cease writing  
27 new and renewal business upon the effective date of the  
28 cancellation, termination, or modification.

29 2. The service warranty association must maintain at  
30 all times net assets of at least \$750,000.

31 Section 5. Section 634.4225, Florida Statutes, is

Bill No. CS for SB 1848

Amendment No. \_\_\_\_ Barcode 980112

1 created to read:

2 634.4225 Rebating; when allowed.--

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

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

7 (b) The rebate shall be in accordance with a rebating  
8 schedule filed by the sales representative with the  
9 association issuing the service warranty to which the rebate  
10 applies. The association shall maintain a copy of all rebating  
11 schedules for a period of 3 years.

12 (c) The rebating schedule shall be uniformly applied  
13 in that all consumers who purchase the same service warranty  
14 through the sales representative for the same coverage receive  
15 the same percentage rebate.

16 (d) The rebate schedule is prominently displayed in  
17 public view in the sales representative's place of doing  
18 business and a copy is available to consumers on request at no  
19 charge.

20 (e) The age, sex, place of residence, race,  
21 nationality, ethnic origin, marital status, or occupation of  
22 the consumer is not used in determining the percentage of the  
23 rebate or whether a rebate is available.

24 (2) No rebate shall be withheld or limited in amount  
25 on factors that are unfairly discriminatory.

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

28 (4) No rebate shall be refused or granted based upon  
29 the purchase or failure to purchase collateral business.

30 Section 6. This act shall take effect upon becoming a  
31 law and section 2 shall apply retroactively to January 1,

Bill No. CS for SB 1848

Amendment No. \_\_\_\_ Barcode 980112

1 1998.

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3 (Redesignate subsequent sections.)

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6 ===== T I T L E A M E N D M E N T =====

7 And the title is amended as follows:

8 On page 1, line 8, following the semicolon

9

10 insert:

11 amending s. 634.271, F.S.; providing an  
12 exemption from penalty provisions for certain  
13 service warranties; providing retroactive  
14 applicability;

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