

CHAMBER ACTION

1 The Civil Justice Committee recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to warranty associations; amending s.
7 634.271, F.S.; providing an exemption from penalty
8 provisions for certain service warranties; providing
9 actual damages and costs for violations for which such
10 statutory penalties do not apply; providing retroactive
11 applicability; amending s. 634.401, F.S.; revising the
12 definition of "service warranty"; providing that certain
13 maintenance service contracts must be covered by a
14 specific contractual liability policy; 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. Subsection (5) is added to section 634.271,
20 Florida Statutes, to read:

21 634.271 Civil remedy.--

22 (5) The penalty provisions in ss. 520.12 and 521.006, as
23 well as the statutory penalty in subsection (1), do not apply to

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24 any violation of this part or chapters 520 and 521 relating to
 25 or in connection with the sale or failure to disclose in a
 26 retail installment contract or lease, prior to April 23, 2002,
 27 of a vehicle protection product, or contract or agreement that
 28 provides for payment of vehicle protection expenses, as defined
 29 in s. 634.011(7)(b)1., so long as the sale of such product,
 30 contract, or agreement was otherwise disclosed to the consumer
 31 in writing at the time of the purchase or lease. However, in the
 32 event of a violation for which such statutory penalties do not
 33 apply, the court shall award actual damages and costs, including
 34 a reasonable attorney's fee. Nothing in this subsection shall be
 35 construed to require the application of the referenced statutory
 36 penalty provisions where this subsection is not applicable.

37 Section 2. Subsection (13) of section 634.401, Florida
 38 Statutes, is amended to read:

39 634.401 Definitions.--As used in this part, the term:

40 (13) "Service warranty" means any warranty, guaranty,
 41 extended warranty or extended guaranty, maintenance service
 42 contract equal to or greater than 1 year in length or which does
 43 not meet the exemption in paragraph (a), contract agreement, or
 44 other written promise for a specific duration to perform the
 45 repair, replacement, or maintenance of a consumer product or for
 46 indemnification for repair, replacement, or maintenance, for the
 47 operational or structural failure due to a defect in materials
 48 or workmanship, normal wear and tear, power surge, or accidental
 49 damage from handling to indemnify against the cost of repair or
 50 replacement of a consumer product in return for the payment of a
 51 segregated charge by the consumer; however:

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52 (a) Maintenance service contracts written for less than 1
53 year ~~or less~~ which do not contain provisions for indemnification
54 and which do not provide a discount to the consumer for any
55 combination of parts and labor in excess of 20 percent during
56 the effective period of such contract, motor vehicle service
57 agreements, transactions exempt under s. 624.125, and home
58 warranties subject to regulation under parts I and II of this
59 chapter are excluded from this definition; and

60 (b) The term "service warranty" does not include service
61 contracts between consumers and condominium associations.

62 Section 3. All maintenance service contracts that include
63 coverage for accidental damage from handling must be covered by
64 the contractual liability policy referenced in s. 634.406(3),
65 Florida Statutes.

66 Section 4. This act shall take effect upon becoming a law,
67 and the creation of subsection (5) of section 634.271, Florida
68 Statutes, by this act shall apply retroactively to January 1,
69 1998.