

By the Committee on Banking and Insurance; and Senator Garcia

597-1836-05

1 A bill to be entitled

2 An act relating to motor vehicle service

3 agreements; amending s. 634.011, F.S.;

4 including paintless dent-removal in the

5 services that may be covered by a motor vehicle

6 service agreement; amending s. 634.041, F.S.;

7 revising requirements governing qualifications

8 for a license to issue such agreements;

9 providing for use of a 50-percent reserve or

10 contractual liability coverage by certain

11 service agreement companies; amending s.

12 634.136, F.S.; requiring a motor vehicle

13 service contract company to maintain additional

14 information relating to motor vehicle service

15 agreements; providing an 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. Paragraph (c) is added to subsection (7) of

20 section 634.011, Florida Statutes, to read:

21 634.011 Definitions.--As used in this part, the term:

22 (7) "Motor vehicle service agreement" or "service

23 agreement" means any contract or agreement indemnifying the

24 service agreement holder for the motor vehicle listed on the

25 service agreement and arising out of the ownership, operation,

26 and use of the motor vehicle against loss caused by failure of

27 any mechanical or other component part, or any mechanical or

28 other component part that does not function as it was

29 originally intended; however, nothing in this part shall

30 prohibit or affect the giving, free of charge, of the usual

31 performance guarantees by manufacturers or dealers in

1 connection with the sale of motor vehicles. Transactions
2 exempt under s. 624.125 are expressly excluded from this
3 definition and are exempt from the provisions of this part.
4 The term "motor vehicle service agreement" includes any
5 contract or agreement that provides:

6 (a) For the coverage or protection defined in this
7 subsection and which is issued or provided in conjunction with
8 an additive product applied to the motor vehicle that is the
9 subject of such contract or agreement; ~~or~~

10 (b) For payment of vehicle protection expenses.

11 1.a. "Vehicle protection expenses" means a
12 preestablished flat amount payable for the loss of or damage
13 to a vehicle or expenses incurred by the service agreement
14 holder for loss or damage to a covered vehicle, including, but
15 not limited to, applicable deductibles under a motor vehicle
16 insurance policy; temporary vehicle rental expenses; expenses
17 for a replacement vehicle that is at least the same year,
18 make, and model of the stolen motor vehicle; sales taxes or
19 registration fees for a replacement vehicle that is at least
20 the same year, make, and model of the stolen vehicle; or other
21 incidental expenses specified in the agreement.

22 b. "Vehicle protection product" means a product or
23 system installed or applied to a motor vehicle or designed to
24 prevent the theft of the motor vehicle or assist in the
25 recovery of the stolen motor vehicle.

26 2. Vehicle protection expenses shall be payable in the
27 event of loss or damage to the vehicle as a result of the
28 failure of the vehicle protection product to prevent the theft
29 of the motor vehicle or to assist in the recovery of the
30 stolen motor vehicle. Vehicle protection expenses covered
31 under the agreement shall be clearly stated in the service

1 agreement form, unless the agreement provides for the payment
2 of a preestablished flat amount, in which case the service
3 agreement form shall clearly identify such amount.

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

6 a. Reimburse a service agreement holder for the
7 following expenses, at a minimum: deductibles applicable to
8 comprehensive coverage under the service agreement holder's
9 motor vehicle insurance policy; temporary vehicle rental
10 expenses; sales taxes and registration fees on a replacement
11 vehicle that is at least the same year, make, and model of the
12 stolen motor vehicle; and the difference between the benefits
13 paid to the service agreement holder for the stolen vehicle
14 under the service agreement holder's comprehensive coverage
15 and the actual cost of a replacement vehicle that is at least
16 the same year, make, and model of the stolen motor vehicle; or

17 b. Pay a preestablished flat amount to the service
18 agreement holder.

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20 Payments shall not duplicate any benefits or expenses paid to
21 the service agreement holder by the insurer providing
22 comprehensive coverage under a motor vehicle insurance policy
23 covering the stolen motor vehicle; however, the payment of
24 vehicle protection expenses at a preestablished flat amount of
25 \$5,000 or less does not duplicate any benefits or expenses
26 payable under any comprehensive motor vehicle insurance
27 policy; ~~or-~~

28 (c)1. For the payment for paintless dent-removal
29 services provided by a company whose primary business is
30 providing such services.

1 2. "Paintless dent-removal" means the process of
2 removing dents, dings, and creases, including hail damage,
3 from a vehicle without affecting the existing paint finish,
4 but does not include services that involve the replacement of
5 vehicle body panels or sanding, bonding, or painting.

6 Section 2. Subsection (9) of section 634.041, Florida
7 Statutes, is amended to read:

8 634.041 Qualifications for license.--To qualify for
9 and hold a license to issue service agreements in this state,
10 a service agreement company must be in compliance with this
11 part, with applicable rules of the commission, with related
12 sections of the Florida Insurance Code, and with its charter
13 powers and must comply with the following:

14 (9)(a) In meeting the requirements of this part,
15 except as provided in paragraph (b), a service agreement
16 company may not utilize both the 50-percent reserve and
17 contractual liability insurance simultaneously. However, a
18 company may have contractual liability coverage on service
19 agreements previously sold and sell new service agreements
20 covered by the 50-percent reserve, and the converse of this is
21 also allowed. A service agreement company must be able to
22 distinguish how each individual service agreement is covered.

23 (b) A service agreement company that maintains net
24 assets of at least \$7.5 million may use the 50-percent reserve
25 or the contractual liability coverage for specific blocks of
26 new service agreements. For purposes of this paragraph, the
27 term "specific blocks of new service agreements" means the
28 service agreements sold by a single designated licensed
29 salesperson. A service agreement must distinguish how each
30 individual service agreement is covered.

1 Section 3. Subsection (4) of section 634.136, Florida
2 Statutes, is amended to read:

3 634.136 Office records required.--Each licensed motor
4 vehicle service contract company, as a minimum requirement for
5 permanent office records, shall maintain:

6 (4) A detailed service agreement register, in
7 numerical order by service agreement number, of agreements in
8 force, which register shall include the following information:
9 service agreement number, date of issue, issuing dealer, name
10 of agreement holder, whether the agreement is covered by
11 contractual liability insurance or the unearned premium
12 reserve account, description of motor vehicle, service
13 agreement period and mileage, gross premium, commission to
14 salespersons, commission to dealer, and net premium.

15 Section 4. This act shall take effect July 1, 2005.

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17 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
18 COMMITTEE SUBSTITUTE FOR
19 Senate Bill 2006

20 The committee substitute permits a licensed motor vehicle
21 service agreement company that maintains net assets of \$7.5
22 million or greater to use either a 50 percent reserve or
23 contractual liability coverage for specific blocks of new
24 service under certain conditions.
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