

1 A bill to be entitled
2 An act relating to warranty associations;
3 amending s. 634.401, F.S.; redefining the term
4 "service warranty" for purposes of regulation
5 of service warranty associations; amending s.
6 634.011, F.S.; including paintless dent-removal
7 in the services that may be covered by a motor
8 vehicle service agreement; amending s. 634.041,
9 F.S.; revising requirements governing
10 qualifications for a license to issue such
11 agreements; providing for use of a 50-percent
12 reserve or contractual liability coverage by
13 certain service agreement companies; amending
14 s. 634.136, F.S.; requiring a motor vehicle
15 service contract company to maintain additional
16 information relating to motor vehicle service
17 agreements; providing an effective date.

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

21 Section 1. Paragraph (c) is added to subsection (7) of
22 section 634.011, Florida Statutes, to read:

23 634.011 Definitions.--As used in this part, the term:
24 (7) "Motor vehicle service agreement" or "service
25 agreement" means any contract or agreement indemnifying the
26 service agreement holder for the motor vehicle listed on the
27 service agreement and arising out of the ownership, operation,
28 and use of the motor vehicle against loss caused by failure of
29 any mechanical or other component part, or any mechanical or
30 other component part that does not function as it was
31 originally intended; however, nothing in this part shall

1 prohibit or affect the giving, free of charge, of the usual
2 performance guarantees by manufacturers or dealers in
3 connection with the sale of motor vehicles. Transactions
4 exempt under s. 624.125 are expressly excluded from this
5 definition and are exempt from the provisions of this part.
6 The term "motor vehicle service agreement" includes any
7 contract or agreement that provides:

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

12 (b) For payment of vehicle protection expenses.

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

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

28 2. Vehicle protection expenses shall be payable in the
29 event of loss or damage to the vehicle as a result of the
30 failure of the vehicle protection product to prevent the theft
31 of the motor vehicle or to assist in the recovery of the

1 | stolen motor vehicle. Vehicle protection expenses covered
2 | under the agreement shall be clearly stated in the service
3 | agreement form, unless the agreement provides for the payment
4 | of a preestablished flat amount, in which case the service
5 | agreement form shall clearly identify such amount.

6 | 3. Motor vehicle service agreements providing for the
7 | payment of vehicle protection expenses shall either:

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

19 | b. Pay a preestablished flat amount to the service
20 | agreement holder.

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

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

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

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

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

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

26 (b) A service agreement company that maintains net
27 assets of at least \$10 million and that annually files with
28 the office a financial statement audited in accordance with
29 generally accepted accounting principles may use either the
30 50-percent reserve or the contractual liability coverage for
31 specific blocks of new service agreements. For purposes of

1 this subsection, the term "specific blocks of new service
2 agreements" means the service agreements sold by a single
3 designated licensed salesperson. A service agreement company
4 must be able to distinguish how each individual service
5 agreement is covered. A service agreement company using the
6 50-percent premium reserve, as permitted under this
7 subsection, must obtain contractual liability insurance
8 coverage for any future deficits in the premium reserve
9 account directly attributable to the specific blocks of new
10 agreements written. Such a contractual liability insurance
11 policy must be filed with the office. Such policies or
12 endorsements to an existing policy must contain language
13 evidencing that the contractual liability insurance policy
14 shall pay claims arising out of such specific blocks of
15 agreements if the service agreement company cannot or will not
16 pay such claims. All contractual liability insurance policies
17 issued to a service agreement company under this part must
18 cover all agreements issued during the term of the policy and,
19 for purposes of this section, the company must obtain and file
20 with the office endorsements to that policy identifying the
21 specific blocks of agreements not covered thereunder.

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

24 634.136 Office records required.--Each licensed motor
25 vehicle service contract company, as a minimum requirement for
26 permanent office records, shall maintain:

27 (4) A detailed service agreement register, in
28 numerical order by service agreement number, of agreements in
29 force, which register shall include the following information:
30 service agreement number, date of issue, issuing dealer, name
31 of agreement holder, whether the agreement is covered by

1 contractual liability insurance or the unearned premium
 2 reserve account, description of motor vehicle, service
 3 agreement period and mileage, gross premium, commission to
 4 salespersons, commission to dealer, and net premium.

5 Section 4. Subsection (13) of section 634.401, Florida
 6 Statutes, is amended to read:

7 634.401 Definitions.--As used in this part, the term:

8 (13) "Service warranty" means any warranty, guaranty,
 9 extended warranty or extended guaranty, maintenance service
 10 contract equal to or greater than 1 year in length or which
 11 does not meet the exemption in paragraph (a), contract
 12 agreement, or other written promise for a specific duration to
 13 perform the repair, replacement, or maintenance of a consumer
 14 product, or for indemnification for repair, replacement, or
 15 maintenance, for operational or structural failure due to a
 16 defect in materials or workmanship, normal wear and tear,
 17 power surge, or accidental damage from handling to indemnify
 18 ~~against the cost of repair or replacement of a consumer~~
 19 ~~product~~ in return for the payment of a segregated charge by
 20 the consumer; however:

21 (a) Maintenance service contracts written for less
 22 than 1 year ~~or less~~ which do not contain provisions for
 23 indemnification and which do not provide a discount to the
 24 consumer for any combination of parts and labor in excess of
 25 20 percent during the effective period of such contract, motor
 26 vehicle service agreements, transactions exempt under s.
 27 624.125, and home warranties subject to regulation under parts
 28 I and II of this chapter are excluded from this definition;
 29 ~~and~~

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(b) The term "service warranty" does not include service contracts between consumers and condominium associations; ~~and-~~

(c) All contracts that include coverage for accidental damage from handling must be covered by the contractual liability policy referred to in s. 634.406(3).

Section 5. This act shall take effect July 1, 2005.