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2 An act relating to warranty associations;
3 amending s. 634.271, F.S.; providing an
4 exemption from penalty provisions for certain
5 service warranties; providing actual damages
6 and costs for violations for which such
7 statutory penalties do not apply; providing
8 retroactive applicability; amending s. 634.401,
9 F.S.; redefining the term "service warranty";
10 providing an effective date.

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

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14 Section 1. Subsection (5) is added to section 634.271,
15 Florida Statutes, to read:

16 634.271 Civil remedy.--

17 (5) The penalty provisions in ss. 520.12 and 521.006,
18 as well as the statutory penalty in subsection (1), do not
19 apply to any violation of this part or chapters 520 and 521
20 relating to or in connection with the sale or failure to
21 disclose in a retail installment contract or lease, prior to
22 April 23, 2002, of a vehicle protection product, or contract
23 or agreement that provides for payment of vehicle protection
24 expenses, as defined in s. 634.011(7)(b)1., so long as the
25 sale of such product, contract, or agreement was otherwise
26 disclosed to the consumer in writing at the time of the
27 purchase or lease. However, in the event of a violation for
28 which such statutory penalties do not apply, the court shall
29 award actual damages and costs, including reasonable
30 attorney's fees. Nothing in this subsection shall be construed

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1 to require the application of the referenced statutory penalty
2 provisions where this subsection is not applicable.

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

5 634.401 Definitions.--As used in this part, the term:

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

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

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

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

4 Section 3. This act shall take effect upon becoming a
5 law and the provisions of this act amending section 634.271,
6 Florida Statutes, apply retroactively to January 1, 1998.

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