

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

.
.
.



1 Representative(s) Evers offered the following:

2

3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Subsection (7) of section 634.011, Florida
6 Statutes, is amended to read:

7 634.011 Definitions.--As used in this part, the term:

8 (7) "Motor vehicle service agreement" or "service
9 agreement" means any contract or agreement indemnifying the
10 service agreement holder for the motor vehicle listed on the
11 service agreement and arising out of the ownership, operation,
12 and use of the motor vehicle against loss caused by failure of
13 any mechanical or other component part, or any mechanical or
14 other component part that does not function as it was originally
15 intended; however, nothing in this part shall prohibit or affect

133209

Amendment No. (for drafter's use only)

16 the giving, free of charge, of the usual performance guarantees
17 by manufacturers or dealers in connection with the sale of motor
18 vehicles. Transactions exempt under s. 624.125 are expressly
19 excluded from this definition and are exempt from the provisions
20 of this part. The term "motor vehicle service agreement"
21 includes any contract or agreement that provides:

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

26 (b) For payment of vehicle protection expenses.

27 1.a. "Vehicle protection expenses" means a preestablished
28 flat amount payable for the loss of or damage to a vehicle or
29 expenses incurred by the service agreement holder for loss or
30 damage to a covered vehicle, including, but not limited to,
31 applicable deductibles under a motor vehicle insurance policy;
32 temporary vehicle rental expenses; expenses for a replacement
33 vehicle that is at least the same year, make, and model of the
34 stolen motor vehicle; sales taxes or registration fees for a
35 replacement vehicle that is at least the same year, make, and
36 model of the stolen vehicle; or other incidental expenses
37 specified in the agreement.

38 b. "Vehicle protection product" means a product or system
39 installed or applied to a motor vehicle or designed to prevent
40 the theft of the motor vehicle or assist in the recovery of the
41 stolen motor vehicle.

133209

4/13/2005 9:13:37 AM

Amendment No. (for drafter's use only)

42 2. Vehicle protection expenses shall be payable in the
43 event of loss or damage to the vehicle as a result of the
44 failure of the vehicle protection product to prevent the theft
45 of the motor vehicle or to assist in the recovery of the stolen
46 motor vehicle. Vehicle protection expenses covered under the
47 agreement shall be clearly stated in the service agreement form,
48 unless the agreement provides for the payment of a
49 preestablished flat amount, in which case the service agreement
50 form shall clearly identify such amount.

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

53 a. Reimburse a service agreement holder for the following
54 expenses, at a minimum: deductibles applicable to comprehensive
55 coverage under the service agreement holder's motor vehicle
56 insurance policy; temporary vehicle rental expenses; sales taxes
57 and registration fees on a replacement vehicle that is at least
58 the same year, make, and model of the stolen motor vehicle; and
59 the difference between the benefits paid to the service
60 agreement holder for the stolen vehicle under the service
61 agreement holder's comprehensive coverage and the actual cost of
62 a replacement vehicle that is at least the same year, make, and
63 model of the stolen motor vehicle; or

64 b. Pay a preestablished flat amount to the service
65 agreement holder.

66
67 Payments shall not duplicate any benefits or expenses paid to
68 the service agreement holder by the insurer providing

133209

4/13/2005 9:13:37 AM

Amendment No. (for drafter's use only)

69 comprehensive coverage under a motor vehicle insurance policy
70 covering the stolen motor vehicle; however, the payment of
71 vehicle protection expenses at a preestablished flat amount of
72 \$5,000 or less does not duplicate any benefits or expenses
73 payable under any comprehensive motor vehicle insurance policy;
74 or

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

78 2. The term "paintless dent-removal" means the process of
79 removing dents, dings, and creases, including hail damage, from
80 a vehicle without affecting the existing paint finish but does
81 not include services that involve the replacement of vehicle
82 body panels or sanding, bonding, or painting.

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

85 634.041 Qualifications for license.--To qualify for and
86 hold a license to issue service agreements in this state, a
87 service agreement company must be in compliance with this part,
88 with applicable rules of the commission, with related sections
89 of the Florida Insurance Code, and with its charter powers and
90 must comply with the following:

91 (9)(a) In meeting the requirements of this part, except as
92 provided in paragraph (b), a service agreement company may not
93 utilize both the 50-percent reserve and contractual liability
94 insurance simultaneously. However, a company may have
95 contractual liability coverage on service agreements previously

133209

4/13/2005 9:13:37 AM

Amendment No. (for drafter's use only)

96 | sold and sell new service agreements covered by the 50-percent
97 | reserve, and the converse of this is also allowed. A service
98 | agreement company must be able to distinguish how each
99 | individual service agreement is covered.

100 | (b) A service agreement company that maintains net assets
101 | of at least \$7.5 million may use the 50-percent reserve or the
102 | contractual liability coverage for specific blocks of new
103 | service agreements. For purposes of this paragraph, the term
104 | "specific blocks of new service agreements" means the service
105 | agreements sold by a single designated licensed salesperson. A
106 | service agreement must distinguish how each individual service
107 | agreement is covered.

108 | Section 3. Subsection (4) of section 634.136, Florida
109 | Statutes, is amended to read:

110 | 634.136 Office records required.--Each licensed motor
111 | vehicle service contract company, as a minimum requirement for
112 | permanent office records, shall maintain:

113 | (4) A detailed service agreement register, in numerical
114 | order by service agreement number, of agreements in force, which
115 | register shall include the following information: service
116 | agreement number, date of issue, issuing dealer, name of
117 | agreement holder, whether the agreement is covered by
118 | contractual liability insurance or the unearned premium reserve
119 | account, description of motor vehicle, service agreement period
120 | and mileage, gross premium, commission to salespersons,
121 | commission to dealer, and net premium.

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

133209

4/13/2005 9:13:37 AM

Amendment No. (for drafter's use only)

123
124
125
126
127
128
129
130
131
132
133
134
135
136
137

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

Remove the entire title and insert:

A bill to be entitled

An act relating to motor vehicle service agreements;
amending s. 634.011, F.S.; including paintless dent-
removal in the services that may be covered by a motor
vehicle service agreement; amending s. 634.041, F.S.;
revising requirements governing qualifications for a
license to issue such agreements; providing for use of a
50-percent reserve or contractual liability coverage by
certain service agreement companies; amending s. 634.136,
F.S.; requiring a motor vehicle service contract company
to maintain additional information relating to motor
vehicle service agreements; providing an effective date.