

CHAMBER ACTION

1 The State Resources Council 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 motor vehicle service agreements;  
7 amending s. 634.011, F.S.; including provision of payments  
8 for paintless dent removal services within application of  
9 the term "motor vehicle service agreement"; providing  
10 definitions; amending s. 634.041, F.S.; revising  
11 requirements governing qualifications for a license to  
12 issue such agreements; authorizing certain service  
13 agreement companies to use a 50-percent reserve and  
14 contractual liability coverage for certain agreements;  
15 providing a definition; amending s. 634.136, F.S.;  
16 requiring a motor vehicle service contract company to  
17 maintain additional information in a detailed service  
18 agreement register relating to motor vehicle service  
19 agreements; providing an effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:  
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23 Section 1. Subsection (7) of section 634.011, Florida  
24 Statutes, is amended to read:

25 634.011 Definitions.--As used in this part, the term:

26 (7) "Motor vehicle service agreement" or "service  
27 agreement" means any contract or agreement indemnifying the  
28 service agreement holder for the motor vehicle listed on the  
29 service agreement and arising out of the ownership, operation,  
30 and use of the motor vehicle against loss caused by failure of  
31 any mechanical or other component part, or any mechanical or  
32 other component part that does not function as it was originally  
33 intended; however, nothing in this part shall prohibit or affect  
34 the giving, free of charge, of the usual performance guarantees  
35 by manufacturers or dealers in connection with the sale of motor  
36 vehicles. Transactions exempt under s. 624.125 are expressly  
37 excluded from this definition and are exempt from the provisions  
38 of this part. The term "motor vehicle service agreement"  
39 includes any contract or agreement that provides for any of the  
40 following:

41 (a) For the coverage or protection defined in this  
42 subsection and which is issued or provided in conjunction with  
43 an additive product applied to the motor vehicle that is the  
44 subject of such contract or agreement. ~~;~~

45 (b) For payment of vehicle protection expenses.

46 1.a. "Vehicle protection expenses" means a preestablished  
47 flat amount payable for the loss of or damage to a vehicle or  
48 expenses incurred by the service agreement holder for loss or  
49 damage to a covered vehicle, including, but not limited to,  
50 applicable deductibles under a motor vehicle insurance policy;

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51 temporary vehicle rental expenses; expenses for a replacement  
52 vehicle that is at least the same year, make, and model of the  
53 stolen motor vehicle; sales taxes or registration fees for a  
54 replacement vehicle that is at least the same year, make, and  
55 model of the stolen vehicle; or other incidental expenses  
56 specified in the agreement.

57 b. "Vehicle protection product" means a product or system  
58 installed or applied to a motor vehicle or designed to prevent  
59 the theft of the motor vehicle or assist in the recovery of the  
60 stolen motor vehicle.

61 2. Vehicle protection expenses shall be payable in the  
62 event of loss or damage to the vehicle as a result of the  
63 failure of the vehicle protection product to prevent the theft  
64 of the motor vehicle or to assist in the recovery of the stolen  
65 motor vehicle. Vehicle protection expenses covered under the  
66 agreement shall be clearly stated in the service agreement form,  
67 unless the agreement provides for the payment of a  
68 preestablished flat amount, in which case the service agreement  
69 form shall clearly identify such amount.

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

72 a. Reimburse a service agreement holder for the following  
73 expenses, at a minimum: deductibles applicable to comprehensive  
74 coverage under the service agreement holder's motor vehicle  
75 insurance policy; temporary vehicle rental expenses; sales taxes  
76 and registration fees on a replacement vehicle that is at least  
77 the same year, make, and model of the stolen motor vehicle; and  
78 the difference between the benefits paid to the service

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79 | agreement holder for the stolen vehicle under the service  
 80 | agreement holder's comprehensive coverage and the actual cost of  
 81 | a replacement vehicle that is at least the same year, make, and  
 82 | model of the stolen motor vehicle; or

83 |       b. Pay a preestablished flat amount to the service  
 84 | agreement holder.

85 |  
 86 | Payments shall not duplicate any benefits or expenses paid to  
 87 | the service agreement holder by the insurer providing  
 88 | comprehensive coverage under a motor vehicle insurance policy  
 89 | covering the stolen motor vehicle; however, the payment of  
 90 | vehicle protection expenses at a preestablished flat amount of  
 91 | \$5,000 or less does not duplicate any benefits or expenses  
 92 | payable under any comprehensive motor vehicle insurance policy.

93 |       (c) For payment of paintless dent removal services by a  
 94 | paintless dent removal provider. For purposes of this paragraph:

95 |           1. "Paintless dent removal services" means the process of  
 96 | removing dents, dings, creases, and hail damage from vehicles  
 97 | without affecting the original paint finish. Paintless dent  
 98 | removal does not include services that involve vehicle panel  
 99 | replacement, sanding, bonding, or painting.

100 |           2. "Paintless dent removal provider" means a company whose  
 101 | primary business consists of providing paintless dent removal  
 102 | services.

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

105 |       634.041 Qualifications for license.--To qualify for and  
 106 | hold a license to issue service agreements in this state, a

107 service agreement company must be in compliance with this part,  
 108 with applicable rules of the commission, with related sections  
 109 of the Florida Insurance Code, and with its charter powers and  
 110 must comply with the following:

111 (9)(a) In meeting the requirements of this part, except as  
 112 provided in paragraph (b), a service agreement company may not  
 113 utilize both the 50-percent reserve and contractual liability  
 114 insurance simultaneously. However, a company may have  
 115 contractual liability coverage on service agreements previously  
 116 sold and sell new service agreements covered by the 50-percent  
 117 reserve, and the converse of this is also allowed. A service  
 118 agreement company must be able to distinguish how each  
 119 individual service agreement is covered.

120 (b) A service agreement company that maintains net assets  
 121 of at least \$7.5 million may use the 50-percent reserve and  
 122 contractual liability coverage for specific blocks of new  
 123 service agreements. For purposes of this paragraph, the term  
 124 "specific blocks of new service agreements" means the service  
 125 agreements sold by a single designated licensed salesperson. A  
 126 service agreement must distinguish how each individual service  
 127 agreement is covered.

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

130 634.136 Office records required.--Each licensed motor  
 131 vehicle service contract company, as a minimum requirement for  
 132 permanent office records, shall maintain:

133 (4) A detailed service agreement register, in numerical  
 134 order by service agreement number, of agreements in force, which

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135 register shall include the following information: service  
136 agreement number, date of issue, issuing dealer, name of  
137 agreement holder, description of motor vehicle, service  
138 agreement period and mileage, gross premium, commission to  
139 salespersons, commission to dealer, and net premium and whether  
140 the agreement is covered by contractual liability insurance or  
141 the unearned premium reserve account.

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