

Bill No. SB 1620

Barcode 892718

CHAMBER ACTION

Senate

House

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The Committee on Banking and Insurance (Posey) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 634.042, Florida Statutes, is created to read:

634.042 Prohibited investments and loans.--A motor vehicle service agreement company shall not directly or indirectly invest in or lend its funds upon the security of any note or other evidence of indebtedness of any director, officer, or controlling stockholder of the motor vehicle service agreement company. This prohibition applies only to investments and loans initially reported on motor vehicle service agreement financial statements after the third quarterly statement for 2006.

Section 2. Subsection (3) of section 634.301, Florida Statutes, is amended to read:

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

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1 (3) "Home warranty" or "warranty" means any contract
2 or agreement:

3 (a) Offered in connection with the sale of residential
4 property;

5 (b) Offered in connection with a loan of \$5,000 or
6 more which is secured by residential property that is the
7 subject of the warranty, but not in connection with the sale
8 of such property; or

9 (c) Offered in connection with a home improvement of
10 \$7,500 or more for residential property that is the subject of
11 the warranty, but not in connection with the sale of such
12 property;

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14 whereby a person undertakes to indemnify the warranty holder
15 against the cost of repair or replacement, or actually
16 furnishes repair or replacement, of any structural component
17 or appliance of a home, necessitated by wear and tear or an
18 inherent defect of any such structural component or appliance
19 or necessitated by the failure of an inspection to detect the
20 likelihood of any such loss. However, this part does not
21 prohibit the giving of usual performance guarantees by either
22 the builder of a home or the manufacturer or seller of an
23 appliance, as long as no identifiable charge is made for such
24 guarantee. This part does not permit the provision of
25 indemnification against consequential damages arising from the
26 failure of any structural component or appliance of a home,
27 which practice constitutes the transaction of insurance
28 subject to all requirements of the insurance code. This part
29 does not apply to service contracts entered into between
30 consumers and nonprofit organizations or cooperatives the
31 members of which consist of condominium associations and

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1 condominium owners and which perform repairs and maintenance
 2 for appliances or maintenance of the residential property.
 3 This part does not apply to a contract or agreement offered in
 4 connection with a sale of residential property by a warranty
 5 association in compliance with part III, provided such
 6 contract or agreement only relates to the systems and
 7 appliances of the covered residential property and does not
 8 cover any structural component of the residential property.

9 Section 3. Section 634.3076, Florida Statutes, is
 10 created to read:

11 634.3076 Prohibited investments and loans.--A home
 12 warranty association shall not directly or indirectly invest
 13 in or lend its funds upon the security of any note or other
 14 evidence of indebtedness of any director, officer, or
 15 controlling stockholder of the home warranty association. This
 16 prohibition applies only to investments and loans initially
 17 reported on a home warranty association's financial statements
 18 after the third quarterly statement for 2006.

19 Section 4. Paragraph (d) is added to subsection (3) of
 20 section 634.3077, Florida Statutes, to read:

21 634.3077 Financial requirements.--

22 (3) An association shall not be required to set up an
 23 unearned premium reserve if it has purchased contractual
 24 liability insurance which demonstrates to the satisfaction of
 25 the office that 100 percent of its claim exposure is covered
 26 by such insurance. Such contractual liability insurance shall
 27 be obtained from an insurer that holds a certificate of
 28 authority to do business within the state or from an insurer
 29 approved by the office as financially capable of meeting the
 30 obligations incurred pursuant to the policy. For purposes of
 31 this subsection, the contractual liability policy shall

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1 contain the following provisions:

2 (d) The contractual liability insurance policy shall
3 insure all home warranty contracts that were issued while the
4 policy was in effect whether or not the premium has been
5 remitted to the insurer.

6 Section 5. Subsection (3) of section 634.312, Florida
7 Statutes, is amended, and subsection (8) is added to that
8 section, to read:

9 634.312 Filing; approval of forms.--

10 (3) The office shall not approve any such form that
11 imposes which allows for more than nine annual renewals or
12 which renewal contracts provide that the cost of renewal
13 exceeds the then-current cost for new warranty contracts or
14 impose a fee for inspection of the premises.

15 (8) Each home warranty contract shall contain a
16 cancellation provision. Any home warranty agreement may be
17 canceled by the purchaser within 10 days after purchase. The
18 refund must be 100 percent of the gross premium paid, less any
19 claims paid on the agreement. A reasonable administrative fee
20 may be charged, not to exceed 5 percent of the gross premium
21 paid by the warranty agreement holder. After the home warranty
22 agreement has been in effect for 10 days, if the contract is
23 canceled by the warranty holder, a return of premium shall be
24 based upon 90 percent of unearned pro rata premium less any
25 claims that have been paid. If the contract is canceled by the
26 association for any reason other than for fraud or
27 misrepresentation, a return of premium shall be based upon 100
28 percent of unearned pro rata premium.

29 Section 6. Subsection (8) of section 634.336, Florida
30 Statutes, is amended to read:

31 634.336 Unfair methods of competition and unfair or

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1 | deceptive acts or practices defined.--The following methods,
2 | acts, or practices are defined as unfair methods of
3 | competition and unfair or deceptive acts or practices:

4 | (8) COERCION OF DEBTORS.--When a home warranty is sold
5 | as authorized by s. 634.301(3)(b):

6 | (a) Requiring, as a condition precedent or condition
7 | subsequent to the lending of the money or the extension of the
8 | credit or any renewal thereof, that the person to whom such
9 | credit is extended purchase a home warranty; or

10 | (b) Failing to provide the advice required by s.
11 | 634.344; or

12 | (c) Failing to comply with the provisions of s.
13 | 634.312(8) ~~s. 634.345~~.

14 | Section 7. Section 634.4062, Florida Statutes, is
15 | created to read:

16 | 634.4062 Prohibited investments and loans.--A service
17 | warranty association shall not directly or indirectly invest
18 | in or lend its funds upon the security of any note or other
19 | evidence of indebtedness of any director, officer, or
20 | controlling stockholder of the service warranty association.
21 | This prohibition applies only to investments and loans
22 | initially reported on a service warranty association's
23 | financial statements after the third quarterly statement for
24 | 2006.

25 | Section 8. Section 634.345, Florida Statutes, is
26 | repealed.

27 | Section 9. This act shall take effect July 1, 2006.

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

31 | And the title is amended as follows:

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1 Delete everything before the enacting clause

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3 and insert:

4 A bill to be entitled

5 An act relating to warranty associations;

6 creating s. 634.042, F.S.; prohibiting a motor

7 vehicle service agreement company from

8 investing or lending company funds for

9 specified purposes; amending s. 634.301, F.S.;

10 revising a definition of "home warranty" to

11 specify nonapplication to certain contracts or

12 agreements; creating s. 634.3076, F.S.;

13 prohibiting a home warranty association from

14 investing or lending association funds for

15 specified purposes; amending s. 634.3077, F.S.;

16 specifying an additional requirement for

17 contractual liability insurance purchased by a

18 home warranty association; amending s. 634.312,

19 F.S.; revising a prohibition against the Office

20 of Insurance Regulation for nonapproval of

21 certain forms; specifying cancellation

22 requirements for home warranty contracts;

23 providing return of premium requirements;

24 authorizing an administrative fee; specifying

25 refund amounts for a home warranty under

26 certain circumstances; amending s. 634.336,

27 F.S.; revising a cross-reference, to conform;

28 creating s. 634.4062, F.S.; prohibiting a

29 service warranty association from investing or

30 lending association funds for specified

31 purposes; repealing s. 634.345, F.S., relating

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1 to a buyer's right to cancel a home warranty;
2 providing an effective date.

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