

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 649  
**SPONSOR(S):** Hasner  
**TIED BILLS:**

Home Warranty Associations

**IDEN./SIM. BILLS:** SB 1620

---

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Insurance Committee		Tinney	Cooper
2) Commerce Council			
3)			
4)			
5)			

---

**SUMMARY ANALYSIS**

Chapter 634, F.S., regulates warranty associations, including motor vehicle service agreement companies, home warranty associations, and service warranty associations. A typical home warranty offers a homeowner protection for kitchen and other household appliances. Additional coverage may be available for heating, ventilation, and air conditioning systems (HVAC); a pool or spa; exposed plumbing, e.g., toilets, sinks, spigots; roofs; and exposed electrical systems, e.g., ceiling fans, among other household furnishings and structures. The price of a 1-year home warranty typically varies in a range from \$250 to \$450, depending on the appliances and structures covered, although the warranty may be renewed.

The regulation of warranty associations is assigned to the Office of Insurance Regulation (OIR), the state agency that also regulates insurers in Florida. OIR reports that approximately 170 warranty associations have been granted authority to sell warranties in the state, although only 20 of the 170 are licensed home warranty associations.

Although a warranty generally is not thought of as a traditional insurance product, such warranties protect policyholders from future risks and associated costs. As a result of indemnifying a warranty holder from future misfortune, a warranty association is, in effect, insuring the warranty holder. Because warranty associations indemnify warranty holders from risk or loss associated with either a future structural defect in a home or with the appliances in the home, OIR is directed by law to regulate warranty associations, including approval of forms, complaint investigation, and monitoring reserve requirements, among other duties. OIR is not required to approve rates for warranties, however.

The law regarding home warranty association forms and approval of forms by OIR is amended by the bill. Under the changes proposed by the bill, a home warranty association will be authorized to renew a home warranty more than nine times. A home warranty association also will be able to charge a higher price to renew a warranty than the price to purchase a new warranty for the same home.

There is no fiscal impact to OIR relating to the bill. Under the bill, homeowners who purchase a home warranty may be required to pay more to renew a warranty than the warranty would cost if purchased for the first time. It is not possible to estimate the impact of this change on consumers, however, since pricing for, and coverages under, home warranties vary.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Provide Limited Government:** Under the bill, a home warranty association will face fewer prohibitions on the sale and renewal of home warranties.

**Promote Personal Responsibility:** Under the bill, a home warranty association is allowed to charge more to renew a home warranty than the price to purchase the same warranty originally. Under current law, the price to renew a home warranty may not be higher than the original purchase price for the same warranty.

#### B. EFFECT OF PROPOSED CHANGES:

##### Background

Chapter 634, F.S., regulates warranty associations, including motor vehicle service agreement companies, home warranty associations, and service warranty associations. Motor vehicle service agreement companies typically offer auto owners extended warranties, or a warranty beyond the terms of an auto manufacturer's warranty. A service warranty association generally offers a consumer a warranty on a newly-purchased appliance or product for home use, e.g., refrigerator, TV, stereo, among many other products.

A typical home warranty offers a homeowner protection for kitchen and other household appliances. Additional coverage may be available for heating, ventilation, and air conditioning systems (HVAC); a pool or spa; exposed plumbing, e.g., toilets, sinks, spigots; roofs; and exposed electrical systems, e.g., ceiling fans, among other household furnishings and structures. The price of a 1-year home warranty typically varies in a range from \$250 to \$450, depending on the appliances and structures covered, although the warranty may be renewed.

A home warranty generally is offered in tandem with the purchase either of a new home or the sale of an existing home. The law also authorizes a home warranty to be offered to a homeowner in conjunction with a home-equity loan or second mortgage of at least \$5,000. Similarly, if a homeowner undertakes home improvements with a value of at least \$7,500, the homeowner may purchase a home warranty to coincide with the improvements. Real estate agents, mortgage brokers, and closing agents are primary sources for sales of home warranties. In most cases, such warranties are offered to home buyers at the time a buyer is signing mortgage documents.

The regulation of warranty associations is assigned to the Office of Insurance Regulation (OIR), the state agency that also regulates insurers in Florida. Although a warranty generally is not thought of as a traditional insurance product, such warranties protect policyholders from future risks and associated costs.

As a result of indemnifying a warranty holder from future misfortune, a warranty association is, in effect, protecting the warrant holder from specified future risks. Because warranty associations indemnify warranty holders from risk or loss associated with either a future structural defect in a home or with the appliances in the home, OIR is directed by law to regulate warranty associations, including approval of forms, complaint investigation, and monitoring reserve requirements, among other duties. OIR is not required to approve rates for warranties, however.

OIR reports that approximately 170 warranty associations have been granted authority to sell their warranties in the state, although only 20 of the 170 are licensed home warranty associations. A

licensed insurer also may sell home warranties under its insurer license. In Florida, an estimated 40 licensed warranty associations have formed a trade association, the Florida Service Agreement Association; the association was originally formed in 1989.<sup>1</sup> Representatives of the association report that association members meet annually.

Members of the state warranty association include insurers, independent warranty administrators, retailers, auto dealers, air conditioning contractors, and manufacturers, most of which offer warranties in addition to their core business.<sup>2</sup> A warranty association may employ repair persons who actually repair covered appliances and structures, although an association also may contract for repair services. Terms of warranties vary; for example, in some cases a warranty holder/homeowner may be required to make a co-payment at the time a repair is made. Other warranties may only require an annual premium, without a co-payment, if a repair person is called to the home.

### Current Law

The law requires a home warranty association to file its application and other similar forms with OIR for approval.<sup>3</sup> Current law requires OIR to disapprove a home warranty association form if the form allows for more than nine annual renewals.<sup>4</sup> Similarly, OIR may not approve a form if it allows a home warranty association to charge a higher premium to renew a warranty than the current price to purchase a new warranty for the same home.<sup>5</sup> The law also prohibits a home warranty association from charging a fee to inspect the premises to be covered by the warranty.<sup>6</sup>

### Changes Proposed by the Bill

The law regarding home warranty association forms and approval of forms by OIR is amended by the bill. Under the changes proposed by the bill, a home warranty association will be authorized to renew a home warranty more than nine times. A home warranty association also will be able to charge a higher price to renew a warranty than the price to purchase a new warranty for the same home. The bill does not authorize a home warranty association to charge an inspection fee before selling or renewing a home warranty.

#### C. SECTION DIRECTORY:

**Section 1** amends s. 634.312, F.S., relating to the forms a home warranty association must submit to OIR for approval.

**Section 2** provides an effective date of July 1, 2006 for the bill.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

---

<sup>1</sup> Personal Communication with the Executive Director of the Florida Service Agreement Association, dated February 3, 2006; on file with Insurance Committee.

<sup>2</sup> *Id.*

<sup>3</sup> Section 634.312, F.S., 2005.

<sup>4</sup> Section 634.312(3), F.S., 2005.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

OIR notes in its analysis of the bill that, under the changes in the bill (lines 14 and 15), a home warranty association will be authorized to charge a consumer who seeks to renew a home warranty more than the cost of a new warranty for the same home.<sup>7</sup> Current law prohibits a warranty association from charging a consumer more to renew a home warranty than the cost for the same warranty if it were new.

This change may result in home warranty associations charging more to a consumer for the renewal of a home warranty than the original cost to purchase the warranty, even if no additional appliances or other structures in the home will be covered. It is not possible to estimate the impact of this change on consumers, however, since pricing for, and coverages under, home warranties vary.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

OIR notes that the authority granted by the bill to home warranty associations to charge a consumer more to renew a home warranty than was charged to originally purchase the same warranty will be inconsistent with similar current law governing traditional insurance contracts. Under s. 626.9541, F.S., the law governing unfair methods of competition and unfair or deceptive acts, an insurer is prohibited from selling an identical or substantially similar product at different prices to customers of the same age and demographics, i.e., persons in the same actuarial class<sup>8</sup>.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

None.

<sup>7</sup> Legislative Bill Analysis from OIR; dated January 30, 2006.

<sup>8</sup> See s. 626.9541(1)(g), F.S., 2005.