

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1205 Motor Vehicle Warranty Associations

**SPONSOR(S):** Richardson

**TIED BILLS:** **IDEN./SIM. BILLS:**

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Insurance</u>	<u>13 Y, 0 N</u>	<u>Reilly/Topp</u>	<u>Overton</u>
2) <u>Jobs &amp; Entrepreneurship Council</u>	<u></u>	<u>Reilly/Topp</u>	<u>Thorn</u>
3) <u></u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
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### SUMMARY ANALYSIS

Chapter 634, F.S., governs the regulation of warranty associations, including motor vehicle service agreement companies and service warranty associations. Motor vehicle service agreements provide vehicle owners with protection when the manufacturer's warranty expires. Service warranty contracts for consumer electronics and appliances allow consumers to extend the product protection beyond the manufacturer's warranty terms.

Although a warranty is not considered a traditional insurance product, it protects purchasers from future risks and associated costs. In Florida, warranty associations are regulated by the Office of Insurance Regulation (OIR). OIR's regulatory authority includes approval of forms, investigation of complaints, and monitoring of reserve requirements, among other duties. However, OIR is not required to approve rates for warranties.

The bill defines "motor vehicle manufacturer" under ch. 634, F.S., to essentially include large motor vehicle manufacturers, their subsidiaries, licensees, and motor vehicle service agreement companies owned by large motor vehicle manufacturers. Further, it exempts motor vehicle service agreements offered by a motor vehicle manufacturer on the manufacturer's own motor vehicles from licensing, deposit, and other regulatory requirements applicable to motor vehicle service agreement companies. Motor vehicle manufacturers remain responsible for filing forms and rates and OIR retains enforcement authority for violations of ch. 634, F.S. The bill also authorizes OIR to prohibit, or suspend the authority of, a motor vehicle manufacturer from issuing, selling, or administering motor vehicle service agreements for specified violations. OIR is also granted discretionary authority to develop by rule an abbreviated form for statistical reporting of sales of service agreements by motor vehicle manufacturers.

HB 1205 also amends Florida's warranty register law to require service warranty associations to maintain a warranty holder's name and address in its register of warranties in force only to extent that the information is provided by the customer.

The bill is effective July 1, 2008.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Provide Limited Government:** Under the bill a motor vehicle manufacturer that sells motor vehicle service agreements on its own products is exempt from specified regulatory provisions.

#### B. EFFECT OF PROPOSED CHANGES:

Chapter 634, F.S., regulates warranty associations, including motor vehicle<sup>1</sup> service agreement companies and service warranty associations. Motor vehicle service agreements offer vehicle owners protection when the manufacturer's warranty expires. Service warranty contracts for consumer electronics and appliances allow consumers to extend the product protection beyond the manufacturer's warranty terms.

While a warranty is not considered a traditional insurance product, it protects purchasers from future risks and associated costs. In Florida, warranty associations are regulated by the Office of Insurance Regulation (OIR). OIR's regulatory authority of warranty associations includes approval of forms, investigation of complaints, and monitoring of reserve requirements, among other duties. However, OIR is not required to approve rates for warranties.

The bill defines "motor vehicle manufacturer" as an entity that:

- Manufactures or produces motor vehicles and sells motor vehicles under its own label;
- Is a majority owned subsidiary of an entity that manufactures or produces motor vehicles;
- Is a corporation which owns 100 percent of an entity that manufactures or produces motor vehicles;
- Does not manufacture or produce motor vehicles but sells motor vehicles under the trade name or label of another entity that manufactures or produces motor vehicles;
- Manufactures or produces motor vehicles and sells such motor vehicles under the trade name or label of another entity that manufactures or produces motor vehicles; or
- Does not manufacture or produce motor vehicles but, pursuant to a written contract, licenses the use of its trade name or label to another entity that manufactures or produces motor vehicles that sells motor vehicles under the licensor's trade name or label.

Nationwide, approximately one-third of all new car purchasers and nearly half of all used car purchasers buy a service contract.<sup>2</sup> HB 1205 exempts motor vehicle service agreements offered by a motor vehicle manufacturer on the manufacturer's own motor vehicles from licensing, deposit, and various other regulatory requirements applicable to motor vehicle service agreement companies.

HB 1205 will decrease regulatory requirements only as to large motor vehicle manufacturers, their subsidiaries, licensees, and motor vehicle service companies owned by such manufacturers. OIR, however, retains enforcement authority over motor vehicle manufacturers, which remain responsible for filing forms and rates. Further, the bill authorizes OIR to prohibit motor vehicle manufacturers from issuing, selling, or administering motor vehicle service agreements for violation of an OIR order or any of

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<sup>1</sup> Section 634(6) defines motor vehicle, in part, as "A self-propelled device operated solely or primarily upon roadways to transport people or property, or the component part of such a self-propelled device," and provides exceptions.

<sup>2</sup> Service Contract Industry Council (SCIC) website, [www.go-scic.com](http://www.go-scic.com). SCIC is a national trade association whose members collectively offer approximately 80 percent of all appliance, consumer electronics, home, and vehicle service contracts sold in the United States.

the provisions of ch. 634, F.S. or to prohibit or suspend such authority for various reasons, including the manufacturer's failure to pay taxes, fees, or assessments within 90 days after being due, failure to pay a judgment within 90 days, failure to pay full amounts due to warranty holders, or if the manufacturer has been placed in receivership, conservatorship, or rehabilitation or other delinquency proceeds have been commenced against it or an affiliate in any state.

The bill also permits OIR to develop by rule an abbreviated form for statistical reporting of sales of service agreements in Florida by motor vehicle manufacturers in lieu of full financial reporting.

HB 1205 also amends Florida's warranty register law to require service warranty associations to maintain a warranty holder's name and address in its register of warranties only to extent that the information is provided by the customer.

C. SECTION DIRECTORY:

**Section 1:** Amends 628.4615, F.S., to conform a cross reference.

**Section 2:** Amends 634.011, F.S., to define motor vehicle manufacturer.

**Section 3:** Amends 634.023, F.S., to exempt a motor vehicle manufacturer's service agreements on the motor vehicle manufacturer's products from specified regulatory requirements.

**Section 4:** Creates Section 634.092, F.S., "Suspension or revocation; motor vehicle manufacturer."

**Section 5:** Amends 634.137, F.S., to grant OIR rule-making authority relating to statistical reporting of sales of service agreements by motor vehicle manufacturers.

**Section 6:** Amends 634.271, F.S., to conform a cross reference.

**Section 7:** Amends 634.4165, pertaining to information licensed service warranty associations are required to maintain in their warranty register.

**Section 8:** Provides an effective date of July 1, 2008.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Office of Insurance Regulation estimates a decrease in revenues of approximately \$6,500 annually and additional potential lost revenues for Examination Exemption Requests and new applicant fees. These fees are deposited into the Insurance Regulatory Trust Fund. Specifically, there would be a reduction in the collection of annual licensure fees because the current licensees could become exempt. There are currently 65 MVSA's who pay \$100 annually for license renewal. There would be a reduction in the collection of fees associated with the Examination Exemption Request filed and paid by currently licensed MVSA's meeting net worth and other criteria. The fee is \$2,000 every three years for three companies. There is a potential reduction in new applicant fee of \$100 per company.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Motor vehicle manufacturers, as defined by the bill, will no longer incur expenses related to licensing, deposit, and other regulatory requirements applicable to motor vehicle service agreement companies.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision does not apply because the bill does not: require counties or municipalities to spend funds or to take an action requiring the expenditure of funds; reduce the authority that municipalities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Office of Insurance Regulation is granted discretionary authority to develop by rule an abbreviated form for statistical reporting of sales of service agreements in Florida by motor vehicle manufacturers.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 20, 2008, the Committee on Insurance adopted one amendment which:

- Narrows the definition of motor vehicle manufacturer.
- Requires motor vehicle manufacturers that sell warranties to be licensed as service agreement companies, but exempts such manufacturers from financial solvency provisions.
- Limits fingerprinting associated with a motor vehicle manufacturer's application for licensure as a service agreement company to officers and directors of the applicant entity.
- Provides that it is an unfair trade practice for warranty associations that do not obtain the name and address of warranty holders to deny a warranty holder's claim based on the association's inability to obtain the purchaser's name and address.
- Requires warranty associations that do not collect the names of warranty holders at the time the product is purchased to provide another method for warranty holders to provide the information.
- Amends the effective date to make the bill effective upon becoming law.