

HB 1205

2008

1 A bill to be entitled

2 An act relating to motor vehicle warranty associations;  
3 amending s. 628.4615, F.S.; conforming a cross-reference;  
4 amending s. 634.011, F.S.; defining the term "motor  
5 vehicle manufacturer"; amending s. 634.023, F.S.;  
6 exempting certain motor vehicle manufacturer service  
7 agreements from certain provisions of law relating to  
8 motor vehicle service agreement companies; deleting a  
9 provision relating to legislative intent; creating s.  
10 634.092, F.S.; authorizing the office to prohibit motor  
11 vehicle manufacturers from issuing, selling, or  
12 administering motor vehicle service agreements under  
13 certain circumstances; authorizing the office to issue an  
14 order suspending the authority of a motor vehicle  
15 manufacture from issuing, selling, or administering motor  
16 vehicle service agreements under certain circumstances;  
17 amending s. 634.137, F.S.; authorizing the Office of  
18 Insurance Regulation to develop an abbreviated form for  
19 statistical reporting of sales of service agreements by  
20 motor vehicle manufacturers in lieu of certain other  
21 financial reports; amending s. 634.271, F.S.; conforming a  
22 cross-reference; amending s. 634.4165, F.S.; revising  
23 criteria for a required detailed warranty register of  
24 warranties in force; providing an effective date.

25  
26 Be It Enacted by the Legislature of the State of Florida:  
27

28 Section 1. Paragraph (a) of subsection (1) of section  
 29 628.4615, Florida Statutes, is amended to read:

30 628.4615 Specialty insurers; acquisition of controlling  
 31 stock, ownership interest, assets, or control; merger or  
 32 consolidation.--

33 (1) For the purposes of this section, the term "specialty  
 34 insurer" means any person holding a license or certificate of  
 35 authority as:

36 (a) A motor vehicle service agreement company authorized  
 37 to issue motor vehicle service agreements as those terms are  
 38 defined in s. 634.011~~(7) and (8)~~;

39 Section 2. Subsections (7) through (16) of section  
 40 634.011, Florida Statutes, are renumbered as subsections (8)  
 41 through (17), respectively, and a new subsection (7) is added to  
 42 that section to read:

43 634.011 Definitions.--As used in this part, the term:

44 (7) "Motor vehicle manufacturer" means an entity that:

45 (a) Manufactures or produces motor vehicles and sells  
 46 motor vehicles under its own name or label;

47 (b) Is a majority owned subsidiary of an entity that  
 48 manufactures or produces motor vehicles;

49 (c) Is a corporation which owns 100 percent of an entity  
 50 that manufactures or produces motor vehicles;

51 (d) Does not manufacture or produce motor vehicles but  
 52 sells motor vehicles under the trade name or label of another  
 53 entity that manufactures or produces motor vehicles;

54 (e) Manufactures or produces motor vehicles and sells such  
 55 motor vehicles under the trade name or label of another entity  
 56 that manufactures or produces motor vehicles; or

57 (f) Does not manufacture or produce motor vehicles but,  
 58 pursuant to a written contract, licenses the use of its trade  
 59 name or label to another entity that manufactures or produces  
 60 motor vehicles that sells motor vehicles under the licensor's  
 61 trade name or label.

62 Section 3. Section 634.023, Florida Statutes, is amended  
 63 to read:

64 634.023 Part exclusive; applicability of other laws.--

65 (1) Except as provided in this part, motor vehicle service  
 66 agreement companies shall be governed by the provisions of this  
 67 part and shall be exempt from all other provisions of the  
 68 Florida Insurance Code.

69 (2) A motor vehicle manufacturer's service agreements on  
 70 the motor vehicle manufacturer's products need not comply with  
 71 s. 634.031, s. 634.041, s. 634.044, s. 634.052, s. 634.053, s.  
 72 634.061, s. 634.071, or s. 634.081. ~~The provisions of chapter~~  
 73 ~~85-321, Laws of Florida, which amended provisions of this part~~  
 74 ~~shall be construed as clarifying legislative intent as to the~~  
 75 ~~status of persons regulated by the part as insurers.~~

76 Section 4. Section 634.092, Florida Statutes, is created  
 77 to read:

78 634.092 Suspension or revocation; motor vehicle  
 79 manufacturer.--

80 (1) The office, in its discretion, may prohibit a motor  
 81 vehicle manufacturer from engaging in the business of issuing,

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82 selling, or administering motor vehicle service agreements in  
83 this state if the office finds the company has violated any  
84 lawful order of the office or any provision of this part.

85 (2) The office may issue an order prohibiting or  
86 suspending the authority of a motor vehicle manufacturer to  
87 issue, administer, or sell service agreements if the office  
88 finds the company in violation of s. 634.081(2)(b)-(e), (g), or  
89 (h) or (3).

90 Section 5. Subsection (6) is added to section 634.137,  
91 Florida Statutes, to read:

92 634.137 Financial and statistical reporting  
93 requirements.--

94 (6) The office may develop by rule an abbreviated form for  
95 statistical reporting sales of service agreements in this state  
96 by motor vehicle manufacturers to submit in lieu of the  
97 financial reports required in subsections (1) and (2).

98 Section 6. Subsection (5) of section 634.271, Florida  
99 Statutes, is amended to read:

100 634.271 Civil remedy.--

101 (5) The penalty provisions in ss. 520.12 and 521.006, as  
102 well as the statutory penalty in subsection (1), do not apply to  
103 any violation of this part or chapters 520 and 521 relating to  
104 or in connection with the sale or failure to disclose in a  
105 retail installment contract or lease, prior to April 23, 2002,  
106 of a vehicle protection product, or contract or agreement that  
107 provides for payment of vehicle protection expenses, as defined  
108 in s. 634.011~~(8)~~~~(7)~~(b)1., so long as the sale of such product,  
109 contract, or agreement was otherwise disclosed to the consumer

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110 in writing at the time of the purchase or lease. However, in the  
 111 event of a violation for which such statutory penalties do not  
 112 apply, the court shall award actual damages and costs, including  
 113 reasonable attorney's fees. Nothing in this subsection shall be  
 114 construed to require the application of the referenced statutory  
 115 penalty provisions where this subsection is not applicable.

116 Section 7. Subsection (2) of section 634.4165, Florida  
 117 Statutes, is amended to read:

118 634.4165 Office records required.--As a minimum  
 119 requirement for permanent office records, each licensed service  
 120 warranty association shall maintain:

121 (2) A detailed warranty register of warranties in force,  
 122 by unique identifier. The register shall include the unique  
 123 identifier, date of issue, issuing sales representative, name of  
 124 warranty holder and the, location of the property to the extent  
 125 the name and address have been furnished by the warranty holder,  
 126 warranty period, gross premium, commission to sales  
 127 representative, and net premium.

128 Section 8. This act shall take effect July 1, 2008.