

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. 634.041, F.S.;  
 6           exempting certain motor vehicle manufacturers from certain  
 7           licensing requirements; amending s. 634.137, F.S.;  
 8           requiring the Office of Insurance Regulation to develop an  
 9           abbreviated form for statistical reporting of sales of  
 10          service agreements by motor vehicle manufacturers in lieu  
 11          of certain other financial reports; amending s. 634.271,  
 12          F.S.; conforming a cross-reference; amending s. 634.4165,  
 13          F.S.; revising criteria for a required detailed warranty  
 14          register of warranties in force; revising certain warranty  
 15          holder information requirements; amending s. 634.436,  
 16          F.S.; specifying an additional unfair claim settlement  
 17          practice; providing an effective date.

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 19   Be It Enacted by the Legislature of the State of Florida:

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 21           Section 1. Paragraph (a) of subsection (1) of section  
 22   628.4615, Florida Statutes, is amended to read:

23           628.4615 Specialty insurers; acquisition of controlling  
 24   stock, ownership interest, assets, or control; merger or  
 25   consolidation.--

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

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

32 Section 2. Subsections (7) through (16) of section  
 33 634.011, Florida Statutes, are renumbered as subsections (8)  
 34 through (17), respectively, and a new subsection (7) is added to  
 35 that section to read:

36 634.011 Definitions.--As used in this part, the term:

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

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

40 (b) Is a subsidiary of an entity that manufactures or  
 41 produces motor vehicles; or

42 (c) Is a corporation that owns 100 percent of an entity  
 43 that manufactures or produces motor vehicles.

44 Section 3. Subsection (12) is added to section 634.041,  
 45 Florida Statutes, to read:

46 634.041 Qualifications for license.--To qualify for and  
 47 hold a license to issue service agreements in this state, a  
 48 service agreement company must be in compliance with this part,  
 49 with applicable rules of the commission, with related sections  
 50 of the Florida Insurance Code, and with its charter powers and  
 51 must comply with the following:

52 (12) A motor vehicle manufacturer complying with the  
 53 provisions of this section must be an entity formed under the  
 54 laws of this state or of another state or district of the United  
 55 States and is required to comply only with subsections (2) and  
 56 (10). A motor vehicle manufacturer is not required to submit

57 fingerprints, background information, or biographical statements  
 58 for any individual except those serving as officers or directors  
 59 of an applicant entity. A motor vehicle manufacturer is not  
 60 required to comply with s. 634.081(5). Motor vehicle  
 61 manufacturers shall be subject to all other applicable  
 62 provisions of this part.

63 Section 4. Subsection (6) is added to section 634.137,  
 64 Florida Statutes, to read:

65 634.137 Financial and statistical reporting  
 66 requirements.--

67 (6) The office shall develop by rule an abbreviated form  
 68 for statistical reporting of sales of service agreements in this  
 69 state by motor vehicle manufacturers to submit in lieu of the  
 70 financial reports required in subsections (1) and (2).

71 Section 5. Subsection (5) of section 634.271, Florida  
 72 Statutes, is amended to read:

73 634.271 Civil remedy.--

74 (5) The penalty provisions in ss. 520.12 and 521.006, as  
 75 well as the statutory penalty in subsection (1), do not apply to  
 76 any violation of this part or chapters 520 and 521 relating to  
 77 or in connection with the sale or failure to disclose in a  
 78 retail installment contract or lease, prior to April 23, 2002,  
 79 of a vehicle protection product, or contract or agreement that  
 80 provides for payment of vehicle protection expenses, as defined  
 81 in s. 634.011~~(8)~~(8)(b)1., so long as the sale of such product,  
 82 contract, or agreement was otherwise disclosed to the consumer  
 83 in writing at the time of the purchase or lease. However, in the  
 84 event of a violation for which such statutory penalties do not

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85 | apply, the court shall award actual damages and costs, including  
86 | reasonable attorney's fees. Nothing in this subsection shall be  
87 | construed to require the application of the referenced statutory  
88 | penalty provisions where this subsection is not applicable.

89 | Section 6. Subsection (2) of section 634.4165, Florida  
90 | Statutes, is amended to read:

91 | 634.4165 Office records required.--As a minimum  
92 | requirement for permanent office records, each licensed service  
93 | warranty association shall maintain:

94 | (2) A detailed warranty register of warranties in force,  
95 | by unique identifier. The register shall include the unique  
96 | identifier, date of issue, issuing sales representative, name of  
97 | warranty holder and the, location of the property to the extent  
98 | the name and address have been furnished by the warranty holder,  
99 | warranty period, gross premium, commission to sales  
100 | representative, and net premium. An association that does not  
101 | collect the name and address of the warranty holder at the time  
102 | of sale must provide another method for warranty holders to  
103 | provide such information, including, but not limited to,  
104 | Internet registration, return postcard, or other means  
105 | acceptable to the office.

106 | Section 7. Subsection (5) of section 634.436, Florida  
107 | Statutes is amended to read:

108 | 634.436 Unfair methods of competition and unfair or  
109 | deceptive acts or practices defined.-- The following methods,  
110 | acts, or practices are defined as unfair methods of competition  
111 | and unfair or deceptive acts or practices:

112 | (5) UNFAIR CLAIM SETTLEMENT PRACTICES.--

113 (a) Attempting to settle claims on the basis of an  
 114 application or any other material document which was altered  
 115 without notice to, or knowledge or consent of, the warranty  
 116 holder;

117 (b) Making a material misrepresentation to the warranty  
 118 holder for the purpose and with the intent of effecting  
 119 settlement of such claims, loss, or damage under such contract  
 120 on less favorable terms than those provided in, and contemplated  
 121 by, such contract; ~~or~~

122 (c) Committing or performing with such frequency as to  
 123 indicate a general business practice any of the following  
 124 practices:

- 125 1. Failure properly to investigate claims;
- 126 2. Misrepresentation of pertinent facts or contract  
 127 provisions relating to coverages at issue;
- 128 3. Failure to acknowledge and act promptly upon  
 129 communications with respect to claims;
- 130 4. Denial of claims without conducting reasonable  
 131 investigations based upon available information;
- 132 5. Failure to affirm or deny coverage of claims upon  
 133 written request of the warranty holder within a reasonable time  
 134 after proof-of-loss statements have been completed; or
- 135 6. Failure to promptly provide a reasonable explanation to  
 136 the warranty holder of the basis in the contract in relation to  
 137 the facts or applicable law for denial of a claim or for the  
 138 offer of a compromise settlement; or

139 (d) Denying a claim solely on the basis that the  
 140 association was not able to confirm that the warranty holder in

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141 | fact purchased a service warranty because the association did  
142 | not obtain the name and address of the warranty holder as set  
143 | forth in s. 634.4165(2).

144 |       Section 8. This act shall take effect upon becoming a law.