

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.

18
 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
 45 For purposes of this subsection, an entity qualifies as a
 46 subsidiary if 25 percent or more of its voting securities are
 47 directly or indirectly owned by an entity that manufactures or
 48 produces motor vehicles and sells motor vehicles under its own
 49 name or label.

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

52 634.041 Qualifications for license.--To qualify for and
 53 hold a license to issue service agreements in this state, a
 54 service agreement company must be in compliance with this part,
 55 with applicable rules of the commission, with related sections
 56 of the Florida Insurance Code, and with its charter powers and

57 | must comply with the following:

58 | (12) A motor vehicle manufacturer complying with the
 59 | provisions of this section must be an entity formed under the
 60 | laws of this state or of another state or district of the United
 61 | States and is required to comply only with subsections (2) and
 62 | (10). A motor vehicle manufacturer is not required to submit
 63 | fingerprints, background information, or biographical statements
 64 | for any individual except those serving as officers or directors
 65 | of an applicant entity. A motor vehicle manufacturer is not
 66 | required to comply with s. 634.081(5). Motor vehicle
 67 | manufacturers shall be subject to all other applicable
 68 | provisions of this part.

69 | Section 4. Subsection (6) is added to section 634.137,
 70 | Florida Statutes, to read:

71 | 634.137 Financial and statistical reporting
 72 | requirements.--

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

77 | Section 5. Subsection (5) of section 634.271, Florida
 78 | Statutes, is amended to read:

79 | 634.271 Civil remedy.--

80 | (5) The penalty provisions in ss. 520.12 and 521.006, as
 81 | well as the statutory penalty in subsection (1), do not apply to
 82 | any violation of this part or chapters 520 and 521 relating to
 83 | or in connection with the sale or failure to disclose in a
 84 | retail installment contract or lease, prior to April 23, 2002,

85 of a vehicle protection product, or contract or agreement that
 86 provides for payment of vehicle protection expenses, as defined
 87 in s. 634.011(8)~~(7)~~(b)1., so long as the sale of such product,
 88 contract, or agreement was otherwise disclosed to the consumer
 89 in writing at the time of the purchase or lease. However, in the
 90 event of a violation for which such statutory penalties do not
 91 apply, the court shall award actual damages and costs, including
 92 reasonable attorney's fees. Nothing in this subsection shall be
 93 construed to require the application of the referenced statutory
 94 penalty provisions where this subsection is not applicable.

95 Section 6. Subsection (2) of section 634.4165, Florida
 96 Statutes, is amended to read:

97 634.4165 Office records required.--As a minimum
 98 requirement for permanent office records, each licensed service
 99 warranty association shall maintain:

100 (2) A detailed warranty register of warranties in force,
 101 by unique identifier. The register shall include the unique
 102 identifier, date of issue, issuing sales representative, name of
 103 warranty holder and the~~7~~ location of the property to the extent
 104 the name and address have been furnished by the warranty holder,
 105 warranty period, gross premium, commission to sales
 106 representative, and net premium. An association that does not
 107 collect the name and address of the warranty holder at the time
 108 of sale must provide another method for warranty holders to
 109 provide such information, including, but not limited to,
 110 Internet registration, return postcard, or other means
 111 acceptable to the office.

112 Section 7. Subsection (5) of section 634.436, Florida

113 Statutes is amended to read:

114 634.436 Unfair methods of competition and unfair or
 115 deceptive acts or practices defined.-- The following methods,
 116 acts, or practices are defined as unfair methods of competition
 117 and unfair or deceptive acts or practices:

118 (5) UNFAIR CLAIM SETTLEMENT PRACTICES.--

119 (a) Attempting to settle claims on the basis of an
 120 application or any other material document which was altered
 121 without notice to, or knowledge or consent of, the warranty
 122 holder;

123 (b) Making a material misrepresentation to the warranty
 124 holder for the purpose and with the intent of effecting
 125 settlement of such claims, loss, or damage under such contract
 126 on less favorable terms than those provided in, and contemplated
 127 by, such contract; ~~or~~

128 (c) Committing or performing with such frequency as to
 129 indicate a general business practice any of the following
 130 practices:

- 131 1. Failure properly to investigate claims;
- 132 2. Misrepresentation of pertinent facts or contract
 133 provisions relating to coverages at issue;
- 134 3. Failure to acknowledge and act promptly upon
 135 communications with respect to claims;
- 136 4. Denial of claims without conducting reasonable
 137 investigations based upon available information;
- 138 5. Failure to affirm or deny coverage of claims upon
 139 written request of the warranty holder within a reasonable time
 140 after proof-of-loss statements have been completed; or

141 6. Failure to promptly provide a reasonable explanation to
142 the warranty holder of the basis in the contract in relation to
143 the facts or applicable law for denial of a claim or for the
144 offer of a compromise settlement; or

145 (d) Denying a claim solely on the basis that the
146 association was not able to confirm that the warranty holder in
147 fact purchased a service warranty because the association did
148 not obtain the name and address of the warranty holder as set
149 forth in s. 634.4165(2).

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