



054068

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
4/1/2008	.	
	.	
	.	

1 The Committee on Banking and Insurance (Lawson) recommended the
 2 following **amendment**:

3
 4 **Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause
 6 and insert:

7
 8 Section 1. Subsection (1) of section 628.4615, Florida
 9 Statutes, is amended to read:

10 628.4615 Specialty insurers; acquisition of controlling
 11 stock, ownership interest, assets, or control; merger or
 12 consolidation.--

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

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

19
20 (b) A home warranty association authorized to issue "home
21 warranties" as those terms are defined in s. 634.301(3) and (4);

22 (c) A service warranty association authorized to issue
23 "service warranties" as those terms are defined in s. 634.401(13)
24 and (14);

25 (d) A prepaid limited health service organization
26 authorized to issue prepaid limited health service contracts, as
27 those terms are defined in chapter 636;

28 (e) An authorized health maintenance organization operating
29 pursuant to s. 641.21;

30 (f) An authorized prepaid health clinic operating pursuant
31 to s. 641.405;

32 (g) A legal expense insurance corporation authorized to
33 engage in a legal expense insurance business pursuant to s.
34 642.021;

35 (h) A provider which is licensed to operate a facility
36 which undertakes to provide continuing care as those terms are
37 defined in s. 651.011(2), (4), (5), and (6);

38 (i) A multiple-employer welfare arrangement operating
39 pursuant to ss. 624.436-624.446;

40 (j) A premium finance company authorized to finance
41 insurance premiums pursuant to s. 627.828; or

42 (k) A corporation authorized to accept donor annuity
43 agreements pursuant to s. 627.481.

44 Section 2. Present subsections (7) through (16) of section
45 634.011, Florida Statutes, are renumbered as subsections (8)

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46 through (17), respectively, and a new subsection (7) is added to
47 that section, to read:

48 634.011 Definitions.--As used in this part, the term:

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

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

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

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

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

58 634.041 Qualifications for license.--To qualify for and
59 hold a license to issue service agreements in this state, a
60 service agreement company must be in compliance with this part,
61 with applicable rules of the commission, with related sections of
62 the Florida Insurance Code, and with its charter powers and must
63 comply with the following:

64 (12) A motor vehicle manufacturer complying with the
65 provisions of this part must be an entity formed under the laws
66 of this state or of another state or district of the United
67 States and need comply only with subsections (2) and (10). A
68 motor vehicle manufacturer need not submit fingerprints,
69 background information, or biographical statements for any
70 individual except those serving as officers or directors of the
71 applicant entity. A motor vehicle manufacturer need not comply
72 with s. 634.081(5). Motor vehicle manufacturers are subject to
73 all other applicable provisions of this part.

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

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76 634.137 Financial and statistical reporting requirements.--
77 (6) The office shall develop by rule an abbreviated form
78 for motor vehicle manufacturers to use in submitting statistical
79 reporting of sales of service agreements in this state in lieu of
80 the financial reports required in subsections (1) and (2).

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

83 634.271 Civil remedy.--

84 (5) The penalty provisions in ss. 520.12 and 521.006, as
85 well as the statutory penalty in subsection (1), do not apply to
86 any violation of this part or chapters 520 and 521 relating to or
87 in connection with the sale or failure to disclose in a retail
88 installment contract or lease, prior to April 23, 2002, of a
89 vehicle protection product, or contract or agreement that
90 provides for payment of vehicle protection expenses, as defined
91 in s. 634.011(8)(b)1. ~~s. 634.011(7)(b)1.~~, so long as the sale of
92 such product, contract, or agreement was otherwise disclosed to
93 the consumer in writing at the time of the purchase or lease.
94 However, in the event of a violation for which such statutory
95 penalties do not apply, the court shall award actual damages and
96 costs, including reasonable attorney's fees. Nothing in this
97 subsection shall be construed to require the application of the
98 referenced statutory penalty provisions where this subsection is
99 not applicable.

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

102 634.4165 Office records required.--As a minimum requirement
103 for permanent office records, each licensed service warranty
104 association shall maintain:

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105 (2) A detailed warranty register of warranties in force, by
106 unique identifier. The register shall include the unique
107 identifier, date of issue, issuing sales representative, name of
108 warranty holder and the location of the property to the extent
109 the name and address have been furnished by the warranty holder,
110 warranty period, gross premium, commission to sales
111 representative, and net premium. Associations not collecting the
112 name and address of the warranty holder at the time of sale must
113 provide another method for warranty holders to provide such
114 information, such as Internet registration, return postcard, or
115 other means acceptable to the office.

116 Section 7. Subsection (5) of section 634.436, Florida
117 Statutes, is amended to read:

118 634.436 Unfair methods of competition and unfair or
119 deceptive acts or practices defined.--The following methods,
120 acts, or practices are defined as unfair methods of competition
121 and unfair or deceptive acts or practices:

122 (5) UNFAIR CLAIM SETTLEMENT PRACTICES.--

123 (a) Attempting to settle claims on the basis of an
124 application or any other material document which was altered
125 without notice to, or knowledge or consent of, the warranty
126 holder;

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

132 (c) Committing or performing with such frequency as to
133 indicate a general business practice any of the following
134 practices:



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- 135 1. Failure properly to investigate claims;
- 136 2. Misrepresentation of pertinent facts or contract
- 137 provisions relating to coverages at issue;
- 138 3. Failure to acknowledge and act promptly upon
- 139 communications with respect to claims;
- 140 4. Denial of claims without conducting reasonable
- 141 investigations based upon available information;
- 142 5. Failure to affirm or deny coverage of claims upon
- 143 written request of the warranty holder within a reasonable time
- 144 after proof-of-loss statements have been completed; or
- 145 6. Failure to promptly provide a reasonable explanation to
- 146 the warranty holder of the basis in the contract in relation to
- 147 the facts or applicable law for denial of a claim or for the
- 148 offer of a compromise settlement: or-

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

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

154
 155 ===== T I T L E A M E N D M E N T =====

156 And the title is amended as follows:

157 Delete everything before the enacting clause
 158 and insert:

159 A bill to be entitled
 160 An act relating to motor vehicle warranty associations;
 161 amending s. 628.4615, F.S., relating to specialty
 162 insurers; conforming a cross-reference to changes made by
 163 the act; amending s. 634.011, F.S.; defining the term
 164 "motor vehicle manufacturer" for purposes of part I of ch.

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165 634, F.S.; amending s. 634.041, F.S.; exempting motor
166 vehicle manufacturers applying for licensure as service
167 agreement companies from certain licensing requirements
168 and limitations on claims liabilities; amending s.
169 634.137, F.S.; authorizing the Office of Insurance
170 Regulation to develop an abbreviated form for statistical
171 reporting of sales of service agreements by motor vehicle
172 manufacturers in lieu of certain other financial reports;
173 amending s. 634.271, F.S.; conforming a cross-reference;
174 amending s. 634.4165, F.S.; requiring warranty service
175 associations that do not collect the names and addresses
176 of warranty holders at the time of sale to provide an
177 alternative method for warranty holders to provide such
178 information; amending s. 634.436, F.S.; prohibiting
179 warranty service associations that do not collect the
180 names and addresses of warranty holders from denying a
181 warranty holder's claim on the basis that the association
182 cannot confirm that the warranty holder in fact purchased
183 the warranty; providing an effective date.