

By Senator Simpson

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1 A bill to be entitled
 2 An act relating to warranty associations; amending ss.
 3 634.121 and 634.312, F.S.; authorizing electronic
 4 transmission of service agreements and home
 5 warranties; providing requirements for electronic
 6 transmission; providing notice requirements; amending
 7 s. 634.406, F.S.; revising criteria authorizing
 8 premiums of certain service warranty associations to
 9 exceed their specified net assets limitations;
 10 revising requirements relating to contractual
 11 liability policies that insure warranty associations;
 12 amending s. 634.414, F.S.; providing requirements for
 13 the delivery of service warranty contracts; providing
 14 notice requirements; providing an effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Subsection (6) of section 634.121, Florida
 19 Statutes, is amended to read:

20 634.121 Forms, required procedures, provisions.—

21 (6) A Each service agreement that, which includes a copy of
 22 the application form, must be mailed, or delivered, or
 23 electronically transmitted to the agreement holder within 45
 24 days after the date of purchase. Electronic transmission of a
 25 service agreement constitutes delivery to the agreement holder.
 26 The electronic transmission must notify the agreement holder of
 27 his or her right to receive a paper copy of the service
 28 agreement via United States mail rather than electronic
 29 transmission. If the agreement holder communicates to the

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30 service agreement company electronically or in writing that he
31 or she does not consent to receipt by electronic transmission, a
32 paper copy of the service agreement shall be provided to the
33 agreement holder.

34 Section 2. Subsection (2) of section 634.312, Florida
35 Statutes, is amended to read:

36 634.312 Forms; required provisions and procedures.—

37 (2) Subject to the insurer's or home warranty association's
38 requirement as to payment of premium, a every home warranty must
39 shall be mailed, or delivered, or electronically transmitted to
40 the warranty holder within not later than 45 days after the
41 effectuation of coverage, and the application is part of the
42 warranty contract document. Electronic transmission of a home
43 warranty constitutes delivery to the warranty holder. The
44 electronic transmission must notify the warranty holder of his
45 or her right to receive a paper copy of the warranty via United
46 States mail rather than electronic transmission. If the warranty
47 holder communicates to the home warranty association
48 electronically or in writing that he or she does not consent to
49 receipt by electronic transmission, a paper copy of the home
50 warranty shall be provided to the warranty holder.

51 Section 3. Subsections (6) and (7) of section 634.406,
52 Florida Statutes, are amended to read:

53 634.406 Financial requirements.—

54 (6) An association that ~~which~~ holds a license under this
55 part ~~and which does not hold any other license under this~~
56 ~~chapter~~ may allow its premiums for service warranties written
57 under this part to exceed the ratio to net assets limitations of
58 this section if the association meets all of the following:

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59 (a) Maintains net assets of at least \$750,000.

60 (b) Uses ~~Utilizes~~ a contractual liability insurance policy
61 approved by the office that: ~~which~~

62 1. Reimburses the service warranty association for 100
63 percent of its claims liability and is issued by an insurer that
64 maintains a policyholder surplus of at least \$100 million; or

65 2. Complies with subsection (3) and is issued by an insurer
66 that maintains a policyholder surplus of at least \$200 million.

67 (c) The insurer issuing the contractual liability insurance
68 policy:

69 ~~1. Maintains a policyholder surplus of at least \$100~~
70 ~~million.~~

71 ~~1.2.~~ Is rated "A" or higher by A.M. Best Company or an
72 equivalent rating by another national rating service acceptable
73 to the office; ~~and.~~

74 ~~3. Is in no way affiliated with the warranty association.~~

75 ~~2.4.~~ In conjunction with the warranty association's filing
76 of the quarterly and annual reports, provides, on a form
77 prescribed by the commission, a statement certifying the gross
78 written premiums in force reported by the warranty association
79 and a statement that all of the warranty association's gross
80 written premium in force is covered under the contractual
81 liability policy, regardless of whether ~~or not~~ it has been
82 reported.

83 ~~(7) A contractual liability policy must insure 100 percent~~
84 ~~of an association's claims exposure under all of the~~
85 ~~association's service warranty contracts, wherever written,~~
86 ~~unless all of the following are satisfied:~~

87 ~~(a) The contractual liability policy contains a clause that~~

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88 ~~specifically names the service warranty contract holders as sole~~
89 ~~beneficiaries of the contractual liability policy and claims are~~
90 ~~paid directly to the person making a claim under the contract;~~

91 ~~(b) The contractual liability policy meets all other~~
92 ~~requirements of this part, including subsection (3) of this~~
93 ~~section, which are not inconsistent with this subsection;~~

94 ~~(c) The association has been in existence for at least 5~~
95 ~~years or the association is a wholly owned subsidiary of a~~
96 ~~corporation that has been in existence and has been licensed as~~
97 ~~a service warranty association in the state for at least 5~~
98 ~~years, and:~~

99 ~~1. Is listed and traded on a recognized stock exchange; is~~
100 ~~listed in NASDAQ (National Association of Security Dealers~~
101 ~~Automated Quotation system) and publicly traded in the over the~~
102 ~~counter securities market; is required to file either of Form~~
103 ~~10-K, Form 100, or Form 20-G with the United States Securities~~
104 ~~and Exchange Commission; or has American Depository Receipts~~
105 ~~listed on a recognized stock exchange and publicly traded or is~~
106 ~~the wholly owned subsidiary of a corporation that is listed and~~
107 ~~traded on a recognized stock exchange; is listed in NASDAQ~~
108 ~~(National Association of Security Dealers Automated Quotation~~
109 ~~system) and publicly traded in the over the counter securities~~
110 ~~market; is required to file Form 10-K, Form 100, or Form 20-G~~
111 ~~with the United States Securities and Exchange Commission; or~~
112 ~~has American Depository Receipts listed on a recognized stock~~
113 ~~exchange and is publicly traded;~~

114 ~~2. Maintains outstanding debt obligations, if any, rated in~~
115 ~~the top four rating categories by a recognized rating service;~~

116 ~~3. Has and maintains at all times a minimum net worth of~~

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117 ~~not less than \$10 million as evidenced by audited financial~~
118 ~~statements prepared by an independent certified public~~
119 ~~accountant in accordance with generally accepted accounting~~
120 ~~principles and submitted to the office annually; and~~

121 ~~4. Is authorized to do business in this state; and~~

122 ~~(d) The insurer issuing the contractual liability policy:~~

123 ~~1. Maintains and has maintained for the preceding 5 years,~~
124 ~~policyholder surplus of at least \$100 million and is rated "A"~~
125 ~~or higher by A.M. Best Company or has an equivalent rating by~~
126 ~~another rating company acceptable to the office;~~

127 ~~2. Holds a certificate of authority to do business in this~~
128 ~~state and is approved to write this type of coverage; and~~

129 ~~3. Acknowledges to the office quarterly that it insures all~~
130 ~~of the association's claims exposure under contracts delivered~~
131 ~~in this state.~~

132
133 ~~If all the preceding conditions are satisfied, then the scope of~~
134 ~~coverage under a contractual liability policy shall not be~~
135 ~~required to exceed an association's claims exposure under~~
136 ~~service warranty contracts delivered in this state.~~

137 Section 4. Subsection (4) is added to section 634.414,
138 Florida Statutes, to read:

139 634.414 Forms; required provisions.—

140 (4) A service warranty contract must be mailed, delivered,
141 or electronically transmitted to the warranty holder within 45
142 days after the date of purchase. Electronic transmission of a
143 contract constitutes delivery to the warranty holder. The
144 electronic transmission must notify the warranty holder of his
145 or her right to receive a paper copy of the contract via United

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146 States mail rather than electronic transmission. If the warranty
147 holder communicates to the service warranty company
148 electronically or in writing that he or she does not consent to
149 receipt by electronic transmission, a paper copy of the contract
150 shall be provided to the warranty holder.

151 Section 5. This act shall take effect July 1, 2014.