

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Insurance & Banking
 2 Subcommittee

3 Representative White offered the following:

4

5 **Amendment (with title amendment)**

6 Remove lines 21-78 and insert:

7 and maintain an unearned premium reserve if it secures ~~purchases~~
 8 and maintains contractual liability insurance in accordance with
 9 the following:

- 10 1. Coverage of ~~The insurance covers~~ 100 percent of the ~~its~~
 11 claim exposure ~~and~~ is obtained from an insurer approved by the
 12 office, which holds a certificate of authority under s. 624.401
 13 to do business within this state, or secured through a risk
 14 retention group, which is authorized to do business within this
 15 state under s. 627.943 or s. 627.944. Such insurer or risk
 16 retention group must maintain a surplus as regards policyholders

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17 | of at least \$15 million.

18 | 2. If the service agreement company does not meet its
19 | contractual obligations, the contractual liability insurance
20 | policy binds its issuer to pay or cause to be paid to the
21 | service agreement holder all legitimate claims and cancellation
22 | refunds for all service agreements issued by the service
23 | agreement company while the policy was in effect. This
24 | requirement also applies to those service agreements for which
25 | no premium has been remitted to the insurer.

26 | 3. If the issuer of the contractual liability policy is
27 | fulfilling the service agreements covered by the contractual
28 | liability policy and the service agreement holder cancels the
29 | service agreement, the issuer must make a full refund of
30 | unearned premium to the consumer, subject to the cancellation
31 | fee provisions of s. 634.121(3). The sales representative and
32 | agent must refund to the contractual liability policy issuer
33 | their unearned pro rata commission.

34 | 4. The policy may not be canceled, terminated, or
35 | nonrenewed by the insurer or the service agreement company
36 | unless a 90-day written notice thereof has been given to the
37 | office by the insurer before the date of the cancellation,
38 | termination, or nonrenewal.

39 | 5. The service agreement company must provide the office
40 | with the claims statistics.

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42 All funds or premiums remitted to an insurer by a motor vehicle
43 service agreement company under this part shall remain in the
44 care, custody, and control of the insurer and shall be counted
45 as an asset of the insurer; provided, however, this requirement
46 does not apply when the insurer and the motor vehicle service
47 agreement company are affiliated companies and members of an
48 insurance holding company system. If the motor vehicle service
49 agreement company chooses to comply with this paragraph but also
50 maintains a reserve to pay claims, such reserve shall only be
51 considered an asset of the covered motor vehicle service
52 agreement company and may not be simultaneously counted as an
53 asset of any other entity.

54 (11) (a) A service agreement company offering service
55 agreements providing vehicle protection expenses may meet the
56 requirements for this part only by maintaining contractual
57 liability insurance covering 100 percent of its vehicle
58 protection claim exposure in accordance with paragraph (8) (b) ~~7~~
59 ~~which insurance must be issued by an insurance company not~~
60 ~~affiliated with the service agreement company, unless the~~
61 ~~insurance company had issued a contractual liability insurance~~
62 ~~policy to a service agreement company on or before January 1,~~
63 ~~2002.~~ Service agreements providing vehicle protection expenses
64 may be sold only to a service agreement holder that has in-force
65 comprehensive motor vehicle insurance coverage for the vehicle
66 to be covered by the service agreement.

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67 Section 2. Paragraph (b) of subsection (3) of section
68 634.121, Florida Statutes, is amended to read:

69 634.121 Forms, required procedures, provisions.-

70 (3)

71 (b) After the service agreement has been in effect for 60
72 days, it may not be canceled by the insurer or service agreement
73 company unless:

74 1. There has been a material misrepresentation or fraud at
75 the time of sale of the service agreement;

76 2. The agreement holder has failed to maintain the motor
77 vehicle as prescribed by the manufacturer;

78 3. The odometer has been tampered with or disabled and the
79 agreement holder has failed to repair the odometer; or

80 4. For nonpayment of premium by the agreement holder, in
81 which case the service agreement company shall provide the
82 agreement holder notice of cancellation by certified mail.

83

84 If the service agreement is canceled by the insurer or service
85 agreement company, the return of premium must not be less than
86 100 percent of the paid unearned pro rata premium, less any
87 claims paid on the agreement. If, after 60 days, the service
88 agreement is canceled by the service agreement holder, lender,
89 finance company, or creditor, the insurer or service agreement
90 company shall return directly to the agreement holder not less
91 than 90 percent of the unearned pro rata premium, less any

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92 | claims paid on the agreement. Cancellations initiated by
93 | lenders, creditors, or finance companies are only valid if
94 | authorized by the terms of the service agreement. The service
95 | agreement company remains responsible for full refunds to the
96 | consumer on canceled service agreements. However, the
97 | salesperson and agent are responsible for the refund of the
98 | unearned pro rata commission. A service agreement company may
99 | effectuate refunds through the issuing salesperson or agent in
100 | accordance with paragraphs (c) and (d).

101 |
102 | -----
103 | **T I T L E A M E N D M E N T**

104 | Remove line 5 and insert:
105 | company to obtain and maintain a license; amending s. 634.121,
106 | F.S.; allowing certain entities to cancel service agreements in
107 | certain circumstances; providing such cancellations are only
108 | valid if authorized; providing an