

1                                   A bill to be entitled  
 2           An act relating to motor vehicle service agreement  
 3           companies; amending s. 634.041, F.S.; revising  
 4           qualifications for a motor vehicle service agreement  
 5           company to obtain and maintain a license; amending s.  
 6           634.121, F.S.; allowing certain entities to cancel  
 7           service agreements in certain circumstances; providing  
 8           such cancellations are only valid if authorized;  
 9           providing an effective date.

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

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13           Section 1. Paragraph (b) of subsection (8) and paragraph  
 14           (a) of subsection (11) of section 634.041, Florida Statutes, are  
 15           amended to read:

16           634.041 Qualifications for license.—To qualify for and  
 17           hold a license to issue service agreements in this state, a  
 18           service agreement company must be in compliance with this part,  
 19           with applicable rules of the commission, with related sections  
 20           of the Florida Insurance Code, and with its charter powers and  
 21           must comply with the following:

22           (8)

23           (b) A service agreement company does not have to establish  
 24           and maintain an unearned premium reserve if it secures ~~purchases~~  
 25           and maintains contractual liability insurance in accordance with

26 the following:

27 1. Coverage of ~~The insurance covers~~ 100 percent of the its  
28 claim exposure ~~and~~ is obtained from an insurer approved by the  
29 office, which holds a certificate of authority under s. 624.401  
30 to do business within this state, or secured through a risk  
31 retention group, which is authorized to do business within this  
32 state under s. 627.943 or s. 627.944. Such insurer or risk  
33 retention group must maintain a surplus as regards policyholders  
34 of at least \$15 million.

35 2. If the service agreement company does not meet its  
36 contractual obligations, the contractual liability insurance  
37 policy binds its issuer to pay or cause to be paid to the  
38 service agreement holder all legitimate claims and cancellation  
39 refunds for all service agreements issued by the service  
40 agreement company while the policy was in effect. This  
41 requirement also applies to those service agreements for which  
42 no premium has been remitted to the insurer.

43 3. If the issuer of the contractual liability policy is  
44 fulfilling the service agreements covered by the contractual  
45 liability policy and the service agreement holder cancels the  
46 service agreement, the issuer must make a full refund of  
47 unearned premium to the consumer, subject to the cancellation  
48 fee provisions of s. 634.121(3). The sales representative and  
49 agent must refund to the contractual liability policy issuer  
50 their unearned pro rata commission.

51           4. The policy may not be canceled, terminated, or  
52 nonrenewed by the insurer or the service agreement company  
53 unless a 90-day written notice thereof has been given to the  
54 office by the insurer before the date of the cancellation,  
55 termination, or nonrenewal.

56           5. The service agreement company must provide the office  
57 with the claims statistics.

58

59 All funds or premiums remitted to an insurer by a motor vehicle  
60 service agreement company under this part shall remain in the  
61 care, custody, and control of the insurer and shall be counted  
62 as an asset of the insurer; provided, however, this requirement  
63 does not apply when the insurer and the motor vehicle service  
64 agreement company are affiliated companies and members of an  
65 insurance holding company system. If the motor vehicle service  
66 agreement company chooses to comply with this paragraph but also  
67 maintains a reserve to pay claims, such reserve shall only be  
68 considered an asset of the covered motor vehicle service  
69 agreement company and may not be simultaneously counted as an  
70 asset of any other entity.

71           (11) (a) A service agreement company offering service  
72 agreements providing vehicle protection expenses may meet the  
73 requirements for this part only by maintaining contractual  
74 liability insurance covering 100 percent of its vehicle  
75 protection claim exposure in accordance with paragraph (8) (b) 7

76 ~~which insurance must be issued by an insurance company not~~  
77 ~~affiliated with the service agreement company, unless the~~  
78 ~~insurance company had issued a contractual liability insurance~~  
79 ~~policy to a service agreement company on or before January 1,~~  
80 ~~2002.~~ Service agreements providing vehicle protection expenses  
81 may be sold only to a service agreement holder that has in-force  
82 comprehensive motor vehicle insurance coverage for the vehicle  
83 to be covered by the service agreement.

84 Section 2. Paragraph (b) of subsection (3) of section  
85 634.121, Florida Statutes, is amended to read:

86 634.121 Forms, required procedures, provisions.—

87 (3)

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

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

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

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

97 4. For nonpayment of premium by the agreement holder, in  
98 which case the service agreement company shall provide the  
99 agreement holder notice of cancellation by certified mail.

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101 If the service agreement is canceled by the insurer or service  
102 agreement company, the return of premium must not be less than  
103 100 percent of the paid unearned pro rata premium, less any  
104 claims paid on the agreement. If, after 60 days, the service  
105 agreement is canceled by the service agreement holder, lender,  
106 finance company, or creditor, the insurer or service agreement  
107 company shall return directly to the agreement holder not less  
108 than 90 percent of the unearned pro rata premium, less any  
109 claims paid on the agreement. Cancellations initiated by  
110 lenders, creditors, or finance companies are only valid if  
111 authorized by the terms of the service agreement. The service  
112 agreement company remains responsible for full refunds to the  
113 consumer on canceled service agreements. However, the  
114 salesperson and agent are responsible for the refund of the  
115 unearned pro rata commission. A service agreement company may  
116 effectuate refunds through the issuing salesperson or agent in  
117 accordance with paragraphs (c) and (d).

118 Section 3. This act shall take effect July 1, 2017.