



472694

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2017	.	
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	.	
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The Committee on Banking and Insurance (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 21 - 78

and insert:

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

1. Coverage of ~~The insurance covers~~ 100 percent of the ~~its~~ claim exposure ~~and~~ is obtained from an insurer that is approved by the office and that ~~which~~ holds a certificate of authority



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11 under s. 624.401 to do business within this state, or such
12 coverage is secured through a risk retention group that is
13 authorized to do business within this state under s. 627.943 or
14 s. 627.944. Such insurer or risk retention group shall maintain
15 a surplus as to policyholders of at least \$15 million.

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

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

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

37 5. The service agreement company must provide the office
38 with the claims statistics.

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

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

65 Section 2. Paragraph (b) of subsection (3) of section
66 634.121, Florida Statutes, is amended to read:

67 634.121 Forms, required procedures, provisions.-

68 (3)



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

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

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

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

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

81
82 If the service agreement is canceled by the insurer or service
83 agreement company, the return of premium must not be less than
84 100 percent of the paid unearned pro rata premium, less any
85 claims paid on the agreement. If, after 60 days, the service
86 agreement is canceled by the service agreement holder, lender,
87 finance company, or creditor, the insurer or service agreement
88 company shall return directly to the agreement holder not less
89 than 90 percent of the unearned pro rata premium, less any
90 claims paid on the agreement. Cancellations initiated by
91 lenders, creditors, or finance companies are valid only if
92 authorized by the terms of the service agreement. The service
93 agreement company remains responsible for full refunds to the
94 consumer on canceled service agreements. However, the
95 salesperson and agent are responsible for the refund of the
96 unearned pro rata commission. A service agreement company may
97 effectuate refunds through the issuing salesperson or agent in



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98 accordance with paragraphs (c) and (d).

99

100 ===== T I T L E A M E N D M E N T =====

101 And the title is amended as follows:

102 Delete line 5

103 and insert:

104 company to obtain and maintain a license; amending s.
105 634.121, F.S.; requiring specified refunds by insurers
106 or service agreement companies if service agreements
107 are canceled by lenders, finance companies, or
108 creditors after a specified timeframe; providing a
109 limitation on such cancellations; providing an