

By Senator Brandes

24-00941-17

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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; providing an  
6           effective date.

7  
8 Be It Enacted by the Legislature of the State of Florida:  
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10           Section 1. Paragraph (b) of subsection (8) and paragraph  
11           (a) of subsection (11) of section 634.041, Florida Statutes, are  
12           amended to read:

13           634.041 Qualifications for license.—To qualify for and hold  
14           a license to issue service agreements in this state, a service  
15           agreement company must be in compliance with this part, with  
16           applicable rules of the commission, with related sections of the  
17           Florida Insurance Code, and with its charter powers and must  
18           comply with the following:

19           (8)

20           (b) A service agreement company does not have to establish  
21           and maintain an unearned premium reserve if it purchases and  
22           maintains contractual liability insurance in accordance with the  
23           following:

24           1. The insurance covers 100 percent of its claim exposure  
25           and is obtained from an insurer approved by the office which  
26           holds a certificate of authority under s. 624.401 or a risk  
27           retention group that is authorized to do business within this  
28           state under s. 627.943 or s. 627.944 and maintains a surplus to  
29           policyholders of at least \$15 million.

30           2. If the service agreement company does not meet its  
31           contractual obligations, the contractual liability insurance  
32           policy binds its issuer to pay or cause to be paid to the

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33 service agreement holder all legitimate claims and cancellation  
34 refunds for all service agreements issued by the service  
35 agreement company while the policy was in effect. This  
36 requirement also applies to those service agreements for which  
37 no premium has been remitted to the insurer.

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

46 4. The policy may not be canceled, terminated, or  
47 nonrenewed by the insurer or the service agreement company  
48 unless a 90-day written notice thereof has been given to the  
49 office by the insurer before the date of the cancellation,  
50 termination, or nonrenewal.

51 5. The service agreement company must provide the office  
52 with the claims statistics.

53  
54 All funds or premiums remitted to an insurer by a motor vehicle  
55 service agreement company under this part shall remain in the  
56 care, custody, and control of the insurer and shall be counted  
57 as an asset of the insurer; provided, however, this requirement  
58 does not apply when the insurer and the motor vehicle service  
59 agreement company are affiliated companies and members of an  
60 insurance holding company system. If the motor vehicle service  
61 agreement company chooses to comply with this paragraph but also

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62 maintains a reserve to pay claims, such reserve shall only be  
63 considered an asset of the covered motor vehicle service  
64 agreement company and may not be simultaneously counted as an  
65 asset of any other entity.

66 (11) (a) A service agreement company offering service  
67 agreements providing vehicle protection expenses may meet the  
68 requirements for this part only by maintaining contractual  
69 liability insurance covering 100 percent of its vehicle  
70 protection claim exposure in accordance with paragraph (8) (b),  
71 ~~which insurance must be issued by an insurance company not~~  
72 ~~affiliated with the service agreement company, unless the~~  
73 ~~insurance company had issued a contractual liability insurance~~  
74 ~~policy to a service agreement company on or before January 1,~~  
75 2002. Service agreements providing vehicle protection expenses  
76 may be sold only to a service agreement holder that has in-force  
77 comprehensive motor vehicle insurance coverage for the vehicle  
78 to be covered by the service agreement.

79 Section 2. This act shall take effect July 1, 2017.