



229342

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/25/2019	.	
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The Committee on Banking and Insurance (Broxson) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsections (1) and (2) of section 634.3077,  
Florida Statutes, are amended, and subsection (5) is added to  
that section, to read:

634.3077 Financial requirements.—

(1) An association licensed under this part shall maintain  
a funded, unearned premium reserve account, consisting of



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11 unencumbered assets, equal to a minimum of 25 percent of the  
12 gross written premiums received by it from all warranty  
13 contracts in force in this state. Such assets must ~~shall~~ be held  
14 in the form of cash or invested in securities for investments as  
15 provided in part II of chapter 625. Such reserve account must be  
16 a separate auditable account for contracts in force in this  
17 state.

18 (2) An association shall maintain, at a minimum, net assets  
19 equal to one-sixth of the written premiums it receives for the  
20 issuance and delivery of any binder or warranty in force. Net  
21 assets may be less than one-sixth of the premiums written,  
22 provided the association has net assets of not less than  
23 \$500,000 and maintains a funded, unearned premium reserve  
24 account consisting of unencumbered assets equal to a minimum of  
25 40 percent of the gross written premiums received by it from all  
26 warranty contracts in force in this state, which must ~~shall~~ be  
27 held in the form of cash or invested in securities for  
28 investments as provided in part II of chapter 625. Such reserve  
29 account must be a separate auditable account for contracts in  
30 force in this state.

31 (5) An association operating in this state that issues home  
32 warranty or home service contracts in other states must comply  
33 with all financial requirement laws of such other states.

34 Section 2. Effective January 1, 2020, section 634.346,  
35 Florida Statutes, is created to read:

36 634.346 Home warranty coverage requirements.-

37 (1) A home warranty sold in this state may not exclude  
38 coverage because of the presence of rust or corrosion unless the  
39 rust or corrosion was a contributing cause of the mechanical



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40 breakdown or failure of a covered appliance, unit, or system.

41 (2) A home warranty contract providing coverage for wear  
42 and tear failures of components of an HVAC system, which  
43 contains an exclusion of replacement coverage for any other  
44 functional components of the HVAC system on the basis of  
45 operational compatibility or operational efficiency requirements  
46 as set by the manufacturer, must:

47 (a) Set forth a disclosure in conspicuous boldfaced type  
48 that the home warranty contract does not cover replacement of  
49 functional components of HVAC systems for reasons of  
50 compatibility or efficiency requirements of the manufacturer  
51 unless additional coverage for such circumstance is purchased,  
52 and provide the website or telephone number for the consumer to  
53 contact to add such additional coverage to the home warranty  
54 contract; and

55 (b) Provide consumers the option to purchase additional  
56 coverage, for an additional charge, for the replacement of  
57 otherwise functional components of an HVAC system necessary to  
58 maintain the compatibility and operating efficiency requirements  
59 of the manufacturer.

60 Section 3. Subsections (1), (2), and (5) of section  
61 634.406, Florida Statutes, are amended, and subsection (8) is  
62 added to that section, to read:

63 634.406 Financial requirements.—

64 (1) An association licensed under this part shall maintain  
65 a funded, unearned premium reserve account, consisting of  
66 unencumbered assets, equal to a minimum of 25 percent of the  
67 gross written premiums received on all warranty contracts in  
68 force which are, ~~wherever~~ written in this state. Such reserve



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69 account must be a separate auditable account for contracts in  
70 force in this state. Such assets must ~~shall~~ be held as  
71 prescribed under ss. 625.301-625.340. For contracts in excess of  
72 2 years which are offered by associations having net assets of  
73 less than \$500,000 and for which premiums are collected in  
74 advance for coverage in a subsequent year, 100 percent of the  
75 premiums for such subsequent years must ~~shall~~ be placed in the  
76 funded, unearned premium reserve account.

77 (2) An association utilizing an unearned premium reserve  
78 shall deposit with the department a reserve deposit for  
79 contracts in force in this state equal to 10 percent of the  
80 gross written premium received on all warranty contracts in  
81 force in this state. Such reserve deposit must ~~shall~~ be of a  
82 type eligible for deposit by insurers under s. 625.52. Request  
83 for release of all or part of the reserve deposit may be made  
84 quarterly and only after the office has received and approved  
85 the association's current financial statements, as well as a  
86 statement sworn to by two officers of the association verifying  
87 such release will not reduce the reserve deposit to less than 10  
88 percent of the gross written premium. The reserve deposit  
89 required under this part must ~~shall~~ be included in calculating  
90 the reserve required by subsection (1). The deposit required in  
91 s. 634.405(1)(b) must ~~shall~~ be included in calculating the  
92 reserve requirements of this section.

93 (5) No warranty seller may allow its gross written premiums  
94 in force for contracts written in this state to exceed a 7-to-1  
95 ratio to net assets.

96 (8) An association operating in this state that issues  
97 service warranty or service contracts in other states must



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98 comply with all financial requirement laws of such other states.

99       Section 4. Except as otherwise provided in this act, this  
100 act shall take effect July 1, 2019.

101  
102 ===== T I T L E   A M E N D M E N T =====

103 And the title is amended as follows:

104       Delete everything before the enacting clause  
105 and insert:

106                               A bill to be entitled  
107       An act relating to warranty associations; amending s.  
108       634.3077, F.S.; revising the basis for calculating the  
109       required assets in a home warranty association's  
110       premium reserve account; requiring that such reserve  
111       account be a separate auditable account for contracts  
112       in force in this state; requiring certain home  
113       warranty associations to comply with other states'  
114       laws; creating s. 634.346, F.S.; prohibiting home  
115       warranties from excluding coverage because of the  
116       presence of rust or corrosion, except under certain  
117       circumstances; specifying requirements for certain  
118       home warranties providing coverage for HVAC system  
119       components; amending s. 634.406, F.S.; revising the  
120       basis for calculating the required assets in a service  
121       warranty association's premium reserve account;  
122       requiring that such reserve account be a separate  
123       auditable account for contracts in force in this  
124       state; revising the basis for calculating a certain  
125       reserve deposit with the Department of Financial  
126       Services; revising the requirements regarding the



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127 ratio of gross written premiums to net assets for  
128 service warranties; requiring certain service warranty  
129 associations to comply with other states' laws;  
130 providing effective dates.