

By Senator Broxson

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1 A bill to be entitled
 2 An act relating to warranty associations; amending s.
 3 634.3077, F.S.; revising the basis for calculating the
 4 required assets in a home warranty association's
 5 premium reserve account; requiring that such reserve
 6 account be a separate auditable account; creating s.
 7 634.346, F.S.; prohibiting home warranties from
 8 excluding coverage solely because of the presence of
 9 rust or corrosion, except under certain circumstances;
 10 specifying requirements for certain home warranties
 11 providing coverage for HVAC system components;
 12 amending s. 634.406, F.S.; revising the basis for
 13 calculating the required assets in a service warranty
 14 association's premium reserve account; requiring that
 15 such reserve account be a separate auditable account;
 16 revising the basis for calculating a certain reserve
 17 deposit with the Department of Financial Services;
 18 providing an effective date.

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Subsections (1) and (2) of section 634.3077,
 23 Florida Statutes, are amended to read:

24 634.3077 Financial requirements.—

25 (1) An association licensed under this part shall maintain
 26 a funded, unearned premium reserve account, consisting of
 27 unencumbered assets, equal to a minimum of 25 percent of the
 28 gross written premiums received by it from all warranty
 29 contracts in force in this state. Such assets must ~~shall~~ be held

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30 in the form of cash or invested in securities for investments as
31 provided in part II of chapter 625. Such reserve account must be
32 a separate auditable account.

33 (2) An association shall maintain, at a minimum, net assets
34 equal to one-sixth of the written premiums it receives for the
35 issuance and delivery of any binder or warranty in force. Net
36 assets may be less than one-sixth of the premiums written,
37 provided the association has net assets of not less than
38 \$500,000 and maintains a funded, unearned premium reserve
39 account consisting of unencumbered assets equal to a minimum of
40 40 percent of the gross written premiums received by it from all
41 warranty contracts in force in this state, which must ~~shall~~ be
42 held in the form of cash or invested in securities for
43 investments as provided in part II of chapter 625. Such reserve
44 account must be a separate auditable account.

45 Section 2. Section 634.346, Florida Statutes, is created to
46 read:

47 634.346 Home warranty coverage requirements.-

48 (1) A home warranty sold in this state may not exclude
49 coverage solely because of the presence of rust or corrosion
50 unless the rust or corrosion was a contributing cause of the
51 mechanical breakdown or failure of a covered appliance, unit, or
52 system.

53 (2) A home warranty contract providing coverage for wear
54 and tear failures of components of a heating, ventilation, and
55 air conditioning (HVAC) system, and which contains an exclusion
56 of replacement coverage for any other functional components of
57 the HVAC system on the basis of operational compatibility or
58 operational efficiency requirements as set by the manufacturer,

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59 must:

60 (a) Set forth a disclosure in conspicuous boldface type
61 that the home warranty contract does not cover replacement of
62 functional components of HVAC systems for reasons of
63 compatibility or efficiency requirements of the manufacturer
64 unless additional coverage for such circumstance is purchased,
65 and provide the website or telephone number for the consumer to
66 contact to add such additional coverage to the home warranty
67 contract; and

68 (b) Provide consumers the option to purchase additional
69 coverage, for an additional charge, for the replacement of
70 otherwise functional components of an HVAC system necessary to
71 maintain the compatibility and operating efficiency requirements
72 of the manufacturer.

73 Section 3. Subsections (1) and (2) of section 634.406,
74 Florida Statutes, are amended to read:

75 634.406 Financial requirements.—

76 (1) An association licensed under this part shall maintain
77 a funded, unearned premium reserve account, consisting of
78 unencumbered assets, equal to a minimum of 25 percent of the
79 gross written premiums received on all warranty contracts in
80 force which are, wherever written in this state. Such reserve
81 account must be a separate auditable account. Such assets must
82 ~~shall~~ be held as prescribed under ss. 625.301-625.340. For
83 contracts in excess of 2 years which are offered by associations
84 having net assets of less than \$500,000 and for which premiums
85 are collected in advance for coverage in a subsequent year, 100
86 percent of the premiums for such subsequent years must ~~shall~~ be
87 placed in the funded, unearned premium reserve account.

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88 (2) An association utilizing an unearned premium reserve
89 shall deposit with the department a reserve deposit equal to 10
90 percent of the gross written premium received on all warranty
91 contracts in force in this state. Such reserve deposit must
92 ~~shall~~ be of a type eligible for deposit by insurers under s.
93 625.52. Request for release of all or part of the reserve
94 deposit may be made quarterly and only after the office has
95 received and approved the association's current financial
96 statements, as well as a statement sworn to by two officers of
97 the association verifying such release will not reduce the
98 reserve deposit to less than 10 percent of the gross written
99 premium. The reserve deposit required under this part must ~~shall~~
100 be included in calculating the reserve required by subsection
101 (1). The deposit required in s. 634.405(1)(b) must ~~shall~~ be
102 included in calculating the reserve requirements of this
103 section.

104 Section 4. This act shall take effect July 1, 2019.