

By the Committee on Banking and Insurance; and Senator Broxson

597-03483-19

20191690c1

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 for contracts
7 in force in this state; requiring certain home
8 warranty associations to comply with other states'
9 laws; creating s. 634.346, F.S.; prohibiting home
10 warranties from excluding coverage because of the
11 presence of rust or corrosion, except under certain
12 circumstances; specifying requirements for certain
13 home warranties providing coverage for HVAC system
14 components; amending s. 634.406, F.S.; revising the
15 basis for calculating the required assets in a service
16 warranty association's premium reserve account;
17 requiring that such reserve account be a separate
18 auditable account for contracts in force in this
19 state; revising the basis for calculating a certain
20 reserve deposit with the Department of Financial
21 Services; revising the requirements regarding the
22 ratio of gross written premiums to net assets for
23 service warranties; requiring certain service warranty
24 associations to comply with other states' laws;
25 providing effective dates.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Subsections (1) and (2) of section 634.3077,

597-03483-19

20191690c1

30 Florida Statutes, are amended, and subsection (5) is added to
31 that section, to read:

32 634.3077 Financial requirements.-

33 (1) An association licensed under this part shall maintain
34 a funded, unearned premium reserve account, consisting of
35 unencumbered assets, equal to a minimum of 25 percent of the
36 gross written premiums received by it from all warranty
37 contracts in force in this state. Such assets must ~~shall~~ be held
38 in the form of cash or invested in securities for investments as
39 provided in part II of chapter 625. Such reserve account must be
40 a separate auditable account for contracts in force in this
41 state.

42 (2) An association shall maintain, at a minimum, net assets
43 equal to one-sixth of the written premiums it receives for the
44 issuance and delivery of any binder or warranty in force. Net
45 assets may be less than one-sixth of the premiums written,
46 provided the association has net assets of not less than
47 \$500,000 and maintains a funded, unearned premium reserve
48 account consisting of unencumbered assets equal to a minimum of
49 40 percent of the gross written premiums received by it from all
50 warranty contracts in force in this state, which must ~~shall~~ be
51 held in the form of cash or invested in securities for
52 investments as provided in part II of chapter 625. Such reserve
53 account must be a separate auditable account for contracts in
54 force in this state.

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

58 Section 2. Effective January 1, 2020, section 634.346,

597-03483-19

20191690c1

59 Florida Statutes, is created to read:

60 634.346 Home warranty coverage requirements.-

61 (1) A home warranty sold in this state may not exclude
62 coverage because of the presence of rust or corrosion unless the
63 rust or corrosion was a contributing cause of the mechanical
64 breakdown or failure of a covered appliance, unit, or system.

65 (2) A home warranty contract providing coverage for wear
66 and tear failures of components of an HVAC system, which
67 contains an exclusion of replacement coverage for any other
68 functional components of the HVAC system on the basis of
69 operational compatibility or operational efficiency requirements
70 as set by the manufacturer, must:

71 (a) Set forth a disclosure in conspicuous boldfaced type
72 that the home warranty contract does not cover replacement of
73 functional components of HVAC systems for reasons of
74 compatibility or efficiency requirements of the manufacturer
75 unless additional coverage for such circumstance is purchased,
76 and provide the website or telephone number for the consumer to
77 contact to add such additional coverage to the home warranty
78 contract; and

79 (b) Provide consumers the option to purchase additional
80 coverage, for an additional charge, for the replacement of
81 otherwise functional components of an HVAC system necessary to
82 maintain the compatibility and operating efficiency requirements
83 of the manufacturer.

84 Section 3. Subsections (1), (2), and (5) of section
85 634.406, Florida Statutes, are amended, and subsection (8) is
86 added to that section, to read:

87 634.406 Financial requirements.-

597-03483-19

20191690c1

88 (1) An association licensed under this part shall maintain
89 a funded, unearned premium reserve account, consisting of
90 unencumbered assets, equal to a minimum of 25 percent of the
91 gross written premiums received on all warranty contracts in
92 force which are, wherever written in this state. Such reserve
93 account must be a separate auditable account for contracts in
94 force in this state. Such assets must ~~shall~~ be held as
95 prescribed under ss. 625.301-625.340. For contracts in excess of
96 2 years which are offered by associations having net assets of
97 less than \$500,000 and for which premiums are collected in
98 advance for coverage in a subsequent year, 100 percent of the
99 premiums for such subsequent years must ~~shall~~ be placed in the
100 funded, unearned premium reserve account.

101 (2) An association utilizing an unearned premium reserve
102 shall deposit with the department a reserve deposit for
103 contracts in force in this state equal to 10 percent of the
104 gross written premium received on all warranty contracts in
105 force in this state. Such reserve deposit must ~~shall~~ be of a
106 type eligible for deposit by insurers under s. 625.52. Request
107 for release of all or part of the reserve deposit may be made
108 quarterly and only after the office has received and approved
109 the association's current financial statements, as well as a
110 statement sworn to by two officers of the association verifying
111 such release will not reduce the reserve deposit to less than 10
112 percent of the gross written premium. The reserve deposit
113 required under this part must ~~shall~~ be included in calculating
114 the reserve required by subsection (1). The deposit required in
115 s. 634.405(1)(b) must ~~shall~~ be included in calculating the
116 reserve requirements of this section.

597-03483-19

20191690c1

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

120 (8) An association operating in this state that issues
121 service warranty or service contracts in other states must
122 comply with all financial requirement laws of such other states.

123 Section 4. Except as otherwise expressly provided in this
124 act, this act shall take effect July 1, 2019.