

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

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25 Be It Enacted by the Legislature of the State of Florida:

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

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

51 account must be a separate auditable account for contracts in
52 force in this state.

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

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

58 634.346 Home warranty coverage requirements.-

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

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

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

76 contract; and

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

82 Section 3. Subsections (1), (2), and (5) of section
 83 634.406, Florida Statutes, are amended, and subsection (8) is
 84 added to that section, to read:

85 634.406 Financial requirements.—

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

99 (2) An association utilizing an unearned premium reserve
 100 shall deposit with the department a reserve deposit for

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

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

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

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