

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/SB 1242

INTRODUCER: Commerce and Tourism Committee and Senator Boyd

SUBJECT: Registrations and Transfers of Heating, Ventilation, and Air-conditioning System
Manufacturer Warranties

DATE: April 4, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Baird</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
2.	_____	_____	<u>JU</u>	_____
3.	_____	_____	<u>RC</u>	_____

I. Summary:

CS/SB 1242 provides that a manufacturer warranty for a Heating, Ventilation, and Air Conditioning (HVAC) system, of a residential property, be registered to the property instead of the person who registered for the warranty. The bill also provides for the following:

- When a subsequent owner purchases the property, the remaining manufacturer warranty coverage of the HVAC system is transferred to the subsequent owner.
- A manufacturer warranty for an HVAC system becomes effective once an HVAC is installed.
- The warrantor continues to be obligated under the terms of a manufacturer's warranty and cannot charge the new owner a transfer fee.
- A contractor who installs a new HVAC system must document the installation through an invoice or receipt to the customer.
- The transfer of the warranty to the new owner does not extend the existing warranty term.
- Warranties are deemed registered with the manufacturer if the contractor is licensed under part I of Chapter 489, F.S., installs the new HVAC system, and provides the manufacturer with the serial number of the HVAC system.

The bill provides an effective date of July 1, 2023.

II. Present Situation:

Warranty Background

A warranty is an assurance that a manufacturer or seller makes about the condition of its product.¹ A warranty means that a manufacturer or seller will replace or repair the product under certain instances. A warranty can be either express or implied.²

An express warranty is a verbal or written assurance for the product.³ On the other hand, an implied warranty is an unstated assurance that the product is made for its intended purpose.⁴ An implied warranty is in addition to an express warranty. However, an implied warranty may be negated or limited by an express warranty. There is no implied warranty if a seller states that the product is “as is”, “with all faults”, or similar language.⁵

Manufacturer Warranties

A manufacturer warranty attaches to the purchase of the product by the manufacturer. A manufacturer warranty is considered a limited warranty because the warranty is only valid for a certain time period after the purchase. These terms and conditions are created by the manufacturer. Once the period of coverage is over, someone can purchase an extended warranty under different coverage terms to extend the protection of the product beyond the terms and conditions laid out in the manufacturer warranty.⁶

Magnuson-Moss Warranty Act

The Magnuson-Moss Warranty Act (MMWA)⁷ is a federal law that governs consumer product warranties. Passed in 1975, the Act requires manufacturers and sellers of consumer products to provide consumers with detailed information about warranty coverage before and after the sale of the warranted product.⁸

The MMWA defines three kinds of consumers:

- A buyer of any consumer product.
- Any person to whom such product is transferred during the duration of an implied or express warranty applicable to the product.

¹ Will Kenton, *Warranty Definition, Types, Example, and How It Works*, Investopedia, Nov. 24, 2022, available at <https://www.investopedia.com/terms/w/warranty.asp> (last visited April 3, 2023).

² 45 Fla. Jur 2d Sales and Exchanges of Goods § 156.

³ “An express warranty is created by an affirmation of fact or promise made by the seller to the buyer that relates to the goods, by any description of the goods that is made part of the basis of the bargain, or by any sample or model that is made part of the basis of the bargain.” S. 672.313, F.S.

⁴ Section 672.314, F.S.

⁵ Section 672.316, F.S.

⁶ Tom Scott, *Extended Warranties vs. Manufacturer Warranties: What's the Difference?*, Fortegra, July 9, 2019, available at <https://blog.fortegra.com/extended-warranties-vs.-manufacturer-warranties-whats-the-difference> (last visited April 3, 2023).

⁷ 15 U.S.C. §§ 2301-2312 (1975).

⁸ MMWA does not apply if a seller or manufacturer does not provide a warranty on their product. Jason Gordon, *Magnuson Moss Warranty Act – Explained*, The Business Professor, Sept. 26, 2021, available at https://thebusinessprofessor.com/en_US/consumer-law/magnuson-moss-warranty-act (last visited April 3, 2023).

- Any other person who is entitled by the terms of such warranty or under applicable State law to enforce the obligations of the warranty.⁹

Manufacturer Warranties for HVAC Systems in Florida

Most manufacturers require that an HVAC contractor purchase and install the HVAC system before the consumer can register the HVAC system for the limited manufacturer warranty. Generally, manufacturers provide a warranty for the HVAC system for 5 to 10 years. The warranty covers parts that might fail such as the air compressor or furnace heat exchanger. The manufacturer will replace or repair any parts at no cost if the parts are covered under the warranty.¹⁰

If a building or house that contains an HVAC system with a manufacturer warranty is sold to another person, the warranty time may be cut short or may not transfer to the new owner. The assignment of the HVAC warranty to the new owner is contingent upon the terms and conditions for the warranty. In Florida, most manufacturer warranties are tied to a person instead of the property. Usually, the manufacturer warranty is tied to the original owner and does not transfer when the property is sold unless the previous owner transfers it to the new owner if that is an option in the warranty. Below are some typical transfer policies:¹¹

Manufacturer	Transfer Policy
Carrier	<ul style="list-style-type: none"> • Must register within 90 days of the property sale. • HVAC must stay in same location. • Subsequent owner will have access to limited warranty with 5-year parts and compressor coverage.¹²
Maytag	<ul style="list-style-type: none"> • Can transfer a warranty from the original owner to subsequent owner. • Subsequent owner can access an “unregistered warranty” for 5-year parts and compressor coverage and 20-year heat exchanger coverage. • Subsequent owners cannot access the entire coverage period that the original owner had for the registered warranty.¹³

⁹ *O'Connor v. BMW of N. Am., LLC*, 905 So. 2d 235, 236–37 (Fla. 2d DCA 2005); *see also*, § 2310(d) of MMMWA provides that, “a consumer who is damaged by the failure of a supplier, warrantor, or service contractor to comply with any obligation under this title, or under a written warranty, implied warranty, or service contract, may bring suit for damages...”

¹⁰ Bryan Carnahan, *HVAC Warranties and You: What Are They, and Why Should You Register Your Product?*, Fire & Ice Heating and Air Conditioning, Inc., July 1, 2022, available at <https://indoortemp.com/resources/hvac-warranties-and-product-registration> (last visited April 3, 2023).

¹¹ Bry'Ana Arvie, *Will HVAC Warranties Automatically Transfer over to New Homeowners?*, Angi, Aug. 10, 2021, available at <https://www.angi.com/articles/do-hvac-warranties-transfer-homeowners.htm> (last visited April 3, 2023).

¹² Homeowner Resources – Warranty, Carrier, available at <https://www.carrier.com/residential/en/us/homeowner-resources/warranty/> (last visited April 3, 2023).

¹³ Product Warranty, Maytag, available at <https://www.maytaghvac.com/warranty/> (last visited April 3, 2023).

Trane	<ul style="list-style-type: none"> • Warranty stays with the HVAC unit regardless of original or subsequent ownership. • Subsequent owner gets access to the remaining warranty coverage period of the original owner’s limited warranty with the manufacturer, but the subsequent owner must register the unit with Trane and pay a transfer fee.¹⁴
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Other States

States differ in their approach on the transferability of warranties to a subsequent owner. In Louisiana and Texas, warranties automatically transfer the remaining coverage of the original owner, without any cost, to the subsequent owner of the property.¹⁵ In Alaska, if the lessor has a warranty on personal property and the terms of the warranty permit transfer, the lessor may transfer the warranty to the new person who acquired ownership.¹⁶ Generally, states allow the terms and conditions of the warranty to control whether the remaining coverage is transferable to a subsequent owner.

Licensed Contractors

The Construction Industry Licensing Board (CILB) within the DBPR is responsible for licensing and regulating the construction industry in this state under part I of ch. 489, F.S.¹⁷ The CILB is divided into two divisions with separate jurisdictions:

- Division I comprises the general contractor, building contractor, and residential contractor members of the CILB. Division I has jurisdiction over the regulation of general contractors, building contractors, and residential contractors.
- Division II comprises the roofing contractor, sheet metal contractor, air-conditioning contractor, mechanical contractor, pool contractor, plumbing contractor, and underground utility and excavation contractor members of the CILB. Division II has jurisdiction over the regulation of roofing contractors, sheet metal contractors, class A, B, and C air-conditioning contractors, mechanical contractors, commercial pool/spa contractors, residential pool/spa contractors, swimming pool/spa servicing contractors, plumbing contractors, underground utility and excavation contractors, solar contractors, and pollutant storage systems contractors.¹⁸

¹⁴ Warranty and Registration, Trane, available at <https://www.trane.com/residential/en/resources/warranty-and-registration/#faq> (last visited April 3, 2023).

¹⁵ La. Stat. § 9:3148; TX BUS & COM § 608.002(a)-(b) which states the following:

(a) If residential real property that includes an air conditioning system as a fixture to the property is conveyed to a new owner, a manufacturer's warranty in effect on that system or a component of that system on the date of the conveyance:

(1) is automatically transferred to the new owner; and

(2) continues in effect as if the new owner was the original purchaser of the system or component, as applicable.

(b) A warrantor continues to be obligated under the terms of a manufacturer's warranty agreement for a warranty transferred under this section and may not charge a fee for the transfer of the warranty.

¹⁶ Alaska Stat. Ann. § 45.35.020.

¹⁷ See s. 489.107, F.S.

¹⁸ Section 489.105(3), F.S.

Under current law, a “certified contractor” has met competency requirements for a particular trade category and holds a geographically unlimited certificate of competency from the DBPR which allows the contractor to contract in any jurisdiction in the state without being required to fulfill the competency requirements of other jurisdictions.¹⁹

The term “registered contractor” means a contractor who has registered with the DBPR as part of meeting competency requirements for a trade category in a particular jurisdiction, which limits the contractor to contracting only in the jurisdiction for which the registration is issued.²⁰

Registered contractors must sit for and satisfactorily pass the state certified license examination to receive a state certified contractor’s license.

A “class A air-conditioning contractor” means a contractor whose services are unlimited in the execution of contracts requiring the experience, knowledge, and skill to install, maintain, repair, fabricate, alter, extend, or design central air-conditioning, refrigeration, heating, and ventilating systems.²¹

A “class B air-conditioning contractor” means a contractor whose services are limited to 25 tons of cooling and 500,000 BTU of heating in any one system in the execution of contracts requiring the experience, knowledge, and skill to install, maintain, repair, fabricate, alter, extend, or design central air-conditioning, refrigeration, heating, and ventilating systems, including duct work in connection with a complete system.²²

A “class C air-conditioning contractor” means a contractor whose business is limited to the servicing of air-conditioning, heating, or refrigeration systems, including any duct cleaning and equipment sanitizing which requires at least a partial disassembling of the system.²³

III. Effect of Proposed Changes:

The bill provides that:

- A manufacturer’s warranty for a HVAC system for a residential property is registered to the property, not the owner.
- Once a subsequent owner purchases the property, the remaining manufacturer warranty coverage of the HVAC system is transferred to the subsequent owner.
- The warrantor cannot continue to be obligated under the terms of a manufacturer’s warranty and cannot charge the new owner a transfer fee.
- An installation of an HVAC system automatically triggers a manufacturer warranty for the HVAC system.
- The contractor who installs a new HVAC system must document the installation through an invoice or receipt to the customer.
- The transfer of the warranty to the new owner does not extend the existing warranty term.

¹⁹ Sections 489.105(8) and 489.113(1), F.S.

²⁰ Sections 489.105(10) and 489.117(1)(b), F.S.

²¹ Section 489.105(3)(f), F.S.

²² Section 489.105(3)(g), F.S.

²³ Section 489.105(3)(h), F.S.

- Warranties are deemed registered with the manufacturer if the contractor is licensed under part I of Chapter 489, F.S., installs the new HVAC system, and provides the manufacturer with the serial number of the HVAC system.

The bill provides an effective date of July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 559.956 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Commerce and Tourism on April 4, 2023:

The CS clarifies that a manufacturer's warranty for an HVAC system is attached to the property and not to the original purchaser. The amendment also:

- Clarifies that the bill only applies to residential real property.
- Provides that the warrantor continues to be obligated under the terms of a manufacturer's warranty and cannot charge the new owner a transfer fee.
- Provides that the transfer of the warranty to the new owner does not extend the existing warranty term.
- Provides that warranties are deemed registered with the manufacturer if the contractor is licensed under part I of Chapter 489, F.S., installs the new HVAC system, and provides the manufacturer with the serial number of the HVAC system.

B. Amendments:

None.