



790218

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
02/27/2024	.	
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The Committee on Rules (Burgess) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraph (s) is added to subsection (1) of  
section 489.129, Florida Statutes, to read:

489.129 Disciplinary proceedings.—

(1) The board may take any of the following actions against  
any certificateholder or registrant: place on probation or  
reprimand the licensee, revoke, suspend, or deny the issuance or  
renewal of the certificate or registration, require financial



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12 restitution to a consumer for financial harm directly related to  
13 a violation of a provision of this part, impose an  
14 administrative fine not to exceed \$10,000 per violation, require  
15 continuing education, or assess costs associated with  
16 investigation and prosecution, if the contractor, financially  
17 responsible officer, or business organization for which the  
18 contractor is a primary qualifying agent, a financially  
19 responsible officer, or a secondary qualifying agent responsible  
20 under s. 489.1195 is found guilty of any of the following acts:

21 (s) Violating any provision of s. 489.150.

22  
23 For the purposes of this subsection, construction is considered  
24 to be commenced when the contract is executed and the contractor  
25 has accepted funds from the customer or lender. A contractor  
26 does not commit a violation of this subsection when the  
27 contractor relies on a building code interpretation rendered by  
28 a building official or person authorized by s. 553.80 to enforce  
29 the building code, absent a finding of fraud or deceit in the  
30 practice of contracting, or gross negligence, repeated  
31 negligence, or negligence resulting in a significant danger to  
32 life or property on the part of the building official, in a  
33 proceeding under chapter 120.

34 Section 2. Section 489.150, Florida Statutes, is created to  
35 read:

36 489.150 Automatic transfer of express written warranties.-

37 (1) As used in this section, the term:

38 (a) "Builder" means the primary general contractor,  
39 building contractor, residential contractor, or roofing  
40 contractor of a home who has the responsibility to supervise,



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41 direct, manage, and control the contracting activities of the  
42 business organization with which he or she is connected and who  
43 has the responsibility to supervise, direct, manage, and control  
44 the construction work on a job for which he or she has obtained  
45 a building permit. Construction work includes, but is not  
46 limited to, construction of structural components.

47 (b) "Express written warranty" means any contract or  
48 agreement whereby a builder undertakes to indemnify the warranty  
49 holder against the cost of repair or replacement, or actually  
50 furnishes repair or replacement, of any structural component or  
51 appliance of a home, necessitated by wear and tear or an  
52 inherent defect of any such structural component or appliance or  
53 necessitated by the failure of an inspection to detect the  
54 likelihood of any such loss.

55 (c) "Home" means any residential real property, or  
56 manufactured or modular home, which is a single-family dwelling,  
57 duplex, triplex, or quadruplex.

58 (d) "Indemnify" means to undertake repair or replacement of  
59 a home's structural component, or pay compensation for such  
60 repair or replacement by cash, check, or other similar means,  
61 including, but not limited to, electronic means.

62 (e) "Structural component" means one or more essential  
63 elements of a home, including the roof, foundation, basement,  
64 exterior or interior walls, electrical and plumbing systems,  
65 ceilings, or floors. The term includes any item covered in the  
66 terms of an express written warranty.

67 (2) Except as provided in this section, if a builder is  
68 obligated under and provides a home purchaser an express written  
69 warranty on or after January 1, 2025, which indemnifies a home



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70 purchaser against the cost of repairing any of the structural  
71 components or any spray foam of a home and if such warranty has  
72 not become null and void or lawfully terminated under the terms  
73 of the express written warranty, the express written warranty  
74 and all indemnification rights, terms, and conditions thereunder  
75 shall automatically transfer to any subsequent purchaser of the  
76 home for the duration of the express written warranty. However,  
77 the express written warranty may not contain a term that  
78 terminates the warranty based on the subsequent purchase alone.

79 (3) (a) An express written warranty provided on or after  
80 January 1, 2025, which is conditioned on the continuation of a  
81 home maintenance contract shall automatically transfer to a  
82 subsequent purchaser pursuant to subsection (2) unless the  
83 subsequent purchaser declines the assignment of the underlying  
84 home maintenance contract. If a subsequent purchaser accepts the  
85 assignment of the home maintenance contract, the subsequent  
86 purchaser is obligated to comply with the terms and conditions  
87 of the home maintenance contract, including, but not limited to,  
88 any requirement to pay consideration. A builder must provide  
89 notice of any amounts due under the home maintenance contract to  
90 a subsequent purchaser at the home address covered by such  
91 contract unless the subsequent purchaser notifies the builder of  
92 a preferred method of notification.

93 (b) A home maintenance contract that is a separate  
94 agreement and is not conditioned on an express written warranty  
95 shall transfer to a subsequent purchaser only to the extent that  
96 the builder and subsequent purchaser agree to the assignment of  
97 the contract.

98 (4) A subsequent purchaser who receives the benefit of a



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99 warranty being automatically transferred to him or her for the  
100 duration of the express written warranty pursuant to this  
101 section must notify the builder that he or she has purchased the  
102 home and therefore is the warrantee under the express written  
103 warranty. Such notice may be given at any time while the  
104 warranty remains in effect. A builder may not require in the  
105 terms of a warranty a shorter notice period than provided for in  
106 this subsection.

107 (5) A builder may not charge a fee for the transfer of a  
108 warranty which occurs automatically pursuant to this section.

109 (6) This section does not:

110 (a) Create a warranty, create any new indemnification  
111 rights or obligations, modify or extend the commencement date or  
112 the duration, or expand the scope of coverage, of the express  
113 written warranty beyond the express written warranty's terms.

114 (b) Require a builder to be obligated under an express  
115 written warranty that has become null and void pursuant to the  
116 terms of the warranty.

117 (c) Require a builder to indemnify a home purchaser or  
118 subsequent purchaser for any structural component, other  
119 component, item, or product of a home covered under the terms of  
120 an express written warranty which is substantially damaged or  
121 substantially modified by the home purchaser or a subsequent  
122 purchaser.

123 (d) Require a builder who is obligated under and provides a  
124 home purchaser or subsequent purchaser an express written  
125 warranty to obtain a license under the Florida Insurance Code,  
126 and such practice does not constitute the transaction of  
127 insurance subject to the requirements of the code, unless



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128 otherwise required by law.

129 (e) Require any subsequent purchaser to be bound by the  
130 terms of a home maintenance contract unless he or she agrees to  
131 the home maintenance contract being assigned to him or her.

132 (f) Require a builder to compensate or reimburse a  
133 subsequent purchaser for the cost that a subsequent purchaser  
134 may incur for repairing a structural component of a home unless  
135 the express written warranty so provides or unless otherwise  
136 provided by law.

137 Section 3. Section 634.301, Florida Statutes, is amended to  
138 read:

139 634.301 Definitions.—Except as provided in s. 634.350, as  
140 used in this part, the term:

141 (1) "Gross written premiums" means the total amount of  
142 premiums, paid for the entire period of the home warranty,  
143 inclusive of commissions, for which the association is obligated  
144 under home warranties issued.

145 (2) "Home warranty" or "warranty" means any contract or  
146 agreement whereby a person undertakes to indemnify the warranty  
147 holder against the cost of repair or replacement, or actually  
148 furnishes repair or replacement, of any structural component or  
149 appliance of a home, necessitated by wear and tear or an  
150 inherent defect of any such structural component or appliance or  
151 necessitated by the failure of an inspection to detect the  
152 likelihood of any such loss. However, this part does not  
153 prohibit the giving of usual performance guarantees by either  
154 the builder of a home or the manufacturer or seller of an  
155 appliance, as long as no identifiable charge is made for such  
156 guarantee. This part does not permit the provision of



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157 indemnification against consequential damages arising from the  
158 failure of any structural component or appliance of a home,  
159 which practice constitutes the transaction of insurance subject  
160 to all requirements of the insurance code. This part does not  
161 apply to service contracts entered into between consumers and  
162 nonprofit organizations or cooperatives the members of which  
163 consist of condominium associations and condominium owners and  
164 which perform repairs and maintenance for appliances or  
165 maintenance of the residential property. This part does not  
166 apply to a contract or agreement offered by a warranty  
167 association in compliance with part III, provided such contract  
168 or agreement only relates to the systems and appliances of the  
169 covered residential property and does not cover any structural  
170 component of the residential property.

171 (3) "Home warranty association" means any corporation or  
172 any other organization, other than an authorized insurer,  
173 issuing home warranties.

174 (4) "Impaired" means having liabilities in excess of  
175 assets.

176 (5) "Insolvent" means the inability of a corporation to pay  
177 its debts as they become due in the usual course of its  
178 business.

179 (6) "Insurance code" means the Florida Insurance Code.

180 (7) "Insurer" means any property or casualty insurer duly  
181 authorized to transact such business in this state.

182 (8) "Listing period" means the period of time residential  
183 property is listed for sale with a licensed real estate broker,  
184 beginning on the date the residence is first listed for sale and  
185 ending on either the date the sale of the residence is closed,



186 the date the residence is taken off the market, or the date the  
187 listing contract with the real estate broker expires.

188 (9) "Net assets" means the amount by which the total  
189 statutory assets of an association exceed the total liabilities  
190 of the association.

191 (10) "Person" includes an individual, company, corporation,  
192 association, insurer, agent, and every other legal entity.

193 (11) "Premium" means the total consideration received, or  
194 to be received, by an insurer or home warranty association for  
195 or related to the issuance and delivery of any binder or  
196 warranty, including any charges designated as assessments or  
197 fees for policies, surveys, inspections, or service or any other  
198 charges.

199 (12) "Sales representative" means any person with whom an  
200 insurer or home inspection or warranty association has a  
201 contract and who is utilized by such insurer or association for  
202 the purpose of selling or issuing home warranties. The term  
203 includes all employees of an insurer or association engaged  
204 directly in the sale or issuance of home warranties.

205 (13) "Structural component" means the roof, plumbing  
206 system, electrical system, foundation, basement, walls,  
207 ceilings, or floors of a home.

208 Section 4. Subsection (1) of section 634.312, Florida  
209 Statutes, is amended to read:

210 634.312 Forms; required provisions and procedures.—

211 (1) Except as provided in s. 634.350: All

212 (a) Home warranty contracts are assignable in a consumer  
213 transaction and must contain a statement informing the purchaser  
214 of the home warranty of her or his right to assign it, at least





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215 within 15 days from the date the home is sold or transferred, to  
216 a subsequent retail purchaser of the home covered by the home  
217 warranty and all conditions on such right of transfer.

218 (b) The home warranty company may charge an assignment fee  
219 not to exceed \$40.

220 (c) Home warranty assignments include, but are not limited  
221 to, the assignment from a home builder who purchased the home  
222 warranty to a subsequent home purchaser.

223 Section 5. Section 634.331, Florida Statutes, is amended to  
224 read:

225 634.331 Coverage of property for sale.—A home warranty may  
226 provide coverage of residential property during the listing  
227 period of such property for a period not to exceed 12 months,  
228 provided that the home warranty company charges the warranty  
229 purchaser a separately identifiable charge for the listing  
230 period coverage in an amount equal to at least 15 percent of the  
231 annual premium charged for the home warranty and the charge for  
232 such coverage is due at the ~~earlier of the~~ end of the listing  
233 period ~~or the date the sale of the residential property is~~  
234 closed. The requirements in s. 634.350 apply to a home warranty  
235 that is transferred to the home purchaser.

236 Section 6. Section 634.350, Florida Statutes, is created to  
237 read:

238 634.350 Automatic transfer of home warranties.—

239 (1) As used in this section, the term:

240 (a) "Builder" means the primary general contractor,  
241 building contractor, residential contractor, or roofing  
242 contractor of a home who has the responsibility to supervise,  
243 direct, manage, and control the contracting activities of the



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244 business organization with which he or she is connected and who  
245 has the responsibility to supervise, direct, manage, and control  
246 the construction work on a job for which he or she has obtained  
247 a building permit. Construction work includes, but is not  
248 limited to, construction of structural components.

249 (b) "Home" means any residential real property, or  
250 manufactured or modular home, which is a single-family dwelling,  
251 duplex, triplex, or quadruplex.

252 (c) "Indemnify" means to undertake repair or replacement of  
253 a home's structural component, or pay compensation for such  
254 repair or replacement by cash, check, or other similar means,  
255 including, but not limited to, electronic means.

256 (d) "Structural component" means one or more essential  
257 elements of a home, including the roof, foundation, basement,  
258 exterior or interior walls, electrical and plumbing systems,  
259 ceilings, or floors. The term includes any item covered in the  
260 terms of a home warranty.

261 (2) Except as provided in this section, if a builder  
262 purchases a home warranty from a licensed home warranty  
263 association on or after January 1, 2025, which covers any of the  
264 structural components or any spray foam of a home, and such  
265 warranty has not become null and void or lawfully terminated  
266 under the terms of the warranty, the home warranty and all  
267 indemnification rights, terms, and conditions thereunder shall  
268 automatically transfer to any subsequent purchaser of the home  
269 for the duration of the home warranty. However, the home  
270 warranty may not contain a term that terminates the warranty  
271 based on the subsequent purchase alone.

272 (3) A subsequent purchaser who receives the benefit of a



273 warranty being automatically transferred to him or her for the  
274 duration of the home warranty pursuant to this section must  
275 notify the home warranty association that he or she has  
276 purchased the home and therefore is the warrantee under the home  
277 warranty. Such notice may be given at any time while the  
278 warranty remains in effect. A home warranty association may not  
279 require in the terms of a warranty a shorter notice period than  
280 provided for in this subsection.

281 (4) A subsequent purchaser may not be required to purchase  
282 or assume a contractual obligation for a home maintenance  
283 contract as a condition of a home warranty.

284 (5) This section does not:

285 (a) Create a warranty, create any new indemnification  
286 rights or obligations, modify or extend the commencement date or  
287 the duration, or expand the scope of coverage, of the home  
288 warranty beyond the home warranty's terms.

289 (b) Require a home warranty association to be obligated  
290 under a warranty that has become null and void pursuant to the  
291 terms of the warranty.

292 (c) Require a home warranty association to indemnify a home  
293 purchaser or subsequent purchaser for any structural component,  
294 other component, item, or product of a home covered under the  
295 terms of an express written warranty which is substantially  
296 damaged or substantially modified by the home purchaser or a  
297 subsequent purchaser.

298 Section 7. This act shall take effect July 1, 2024.

299  
300 ===== T I T L E A M E N D M E N T =====

301 And the title is amended as follows:



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302 Delete everything before the enacting clause  
303 and insert:

304 A bill to be entitled  
305 An act relating to transfers of home warranties;  
306 amending s. 489.129, F.S.; authorizing the  
307 Construction Industry Licensing Board to take certain  
308 disciplinary actions if a certain provision is  
309 violated; creating s. 489.150, F.S.; defining terms;  
310 providing that certain express written warranties and  
311 all rights, terms, and conditions thereunder  
312 automatically transfer to any subsequent purchaser  
313 under certain circumstances; requiring that certain  
314 express written warranties automatically transfer to  
315 subsequent purchasers; providing an exception;  
316 providing that the subsequent purchaser is obligated  
317 to comply with the terms and conditions of the home  
318 maintenance contract under certain circumstances;  
319 requiring the builder to provide notice of amounts due  
320 under the home maintenance contract to a subsequent  
321 purchaser in a specified manner; providing an  
322 exception; providing that certain home maintenance  
323 contracts shall transfer to a subsequent purchaser  
324 only under certain conditions; requiring certain  
325 subsequent purchasers to make a certain notification  
326 to the builder at a specified time; prohibiting a  
327 builder from requiring a shorter notice period;  
328 prohibiting a builder from charging a fee for certain  
329 transfers of warranties; providing construction;  
330 amending ss. 634.301 and 634.312, F.S.; conforming



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331 provisions to changes made by the act; amending s.  
332 634.331, F.S.; revising when certain charges for a  
333 home warranty are due; providing applicability;  
334 creating s. 634.350, F.S.; defining terms; providing  
335 that home warranties and all rights, terms, and  
336 conditions thereunder automatically transfer to any  
337 subsequent purchaser under certain circumstances;  
338 prohibiting a home warranty from containing a certain  
339 term; requiring certain subsequent purchasers to make  
340 a certain notification to the home warranty  
341 association within a specified timeframe; prohibiting  
342 a home warranty association from requiring a shorter  
343 notice period; prohibiting a subsequent purchaser from  
344 being required to purchase or assume certain  
345 contractual obligations; providing construction;  
346 providing an effective date.