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 Rules

BILL: CS/SB 282

INTRODUCER: Banking and Insurance Committee and Senator Truenow

SUBJECT: Warranty Associations

DATE: March 18, 2025 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	**Fav/CS**
2.	Renner	McKay	CM	**Favorable**
3.	Johnson	Yeatman	RC	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 282 revises the financial requirements of service warranty associations and home warranty associations, which are regulated by the Office of Insurance Regulation.

Current law allows a service warranty association licensed under Part III of ch. 634, F.S., but holding no other license under ch. 634, F.S., to forego securing contractual liability insurance, establishing unearned premium reserves, and complying with premium writing ratios if the service warranty association, or its parent company, has a net worth of at least $100 million and provides the Office of Insurance Regulation (OIR) specified audited financial statements *and* specified filings made with the Securities and Exchange Commission or other documents which must be filed with a recognized exchange. Under the bill, such a service warranty association may qualify for the exemption if it provides specified audited financial statements *or* provides specified filings made with the Securities and Exchange Commission or other documents which must be filed with a recognized exchange. The effect of this change is to allow a service warranty association that is not publicly traded to be eligible for the exemption because it can qualify by only providing audited financial statements.

The bill clarifies that a service warranty association selecting the $100 million net worth option is not required to purchase contractual liability insurance coverage if the association includes “accidental damage from handling” coverage in its extended warranty contracts.

The bill clarifies that a home warranty association or a service warranty association may use multiple contractual liability insurance policies issued from multiple insurers, rather than a single policy issued from a single insurer, to cover 100 percent of their claim exposure as an alternative to establishing an unearned premium reserve.

The bill takes effect July 1, 2025.

The bill has no fiscal impact on state or local governments.

II. Present Situation:

Regulation of Warranty Associations

The Office of Insurance Regulation (OIR)[1] is responsible for the regulation of all activities of insurers and other risk-bearing entities, including the regulation of warranty associations pursuant to ch. 634, F.S. The scope of the regulation under ch. 634, F.S.,[2] includes motor vehicle service agreement companies,[3] home warranty associations,[4] and service warranties.[5] Motor vehicle service agreements provide vehicle owners with protection when the manufacturer's warranty expires. Home warranty associations indemnify warranty holders against the cost of repairs or replacement of any structural component or appliance in a home. Service warranty contracts for consumer electronics and appliances allow consumers to extend the product protection beyond the manufacturer's warranty terms.

While a warranty is not considered a traditional insurance product, it is intended to protect purchasers from future risks and associated costs. The OIR's regulatory authority of warranty associations includes approval of forms, investigation of complaints, and monitoring of reserve requirements, among other duties. However, the OIR does not approve rates for warranty association products.

Home Warranty Associations

A home warranty association is licensed by OIR to sell these warranties. For a home warranty association to be licensed, it must be a solvent corporation, provide evidence to OIR of competent and trustworthy management, and comply with the requirements of section 634.305, F.S. relating to required deposits or bonds.[6] A home warranty association must follow the financial requirements established in section 634.3077, F.S., which include:

- Maintaining a funded, unearned premium reserve account, consisting of unencumbered assets, equal to a minimum of 25 percent of the gross written premiums received from all

[1] OIR is an office under the Financial Services Commission (commission), which is composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture. The commission is not subject to control, supervision, or direction by the Department of Financial Services in any manner, including purchasing, transactions involving real or personal property, personnel, or budgetary matters. Section 20.121(3), F.S.
[2] The Department of Financial Services regulates sales representative pursuant to s. 634.402, F.S.
[3] Part I, ch. 634, F.S.
[4] Part II, ch. 634, F.S.
[5] Part III, ch. 634, F.S.
[6] Section 634.304, F.S.

warranty contracts in force in Florida. Assets must be held in the form of cash or securities and in a separate account that can be audited.[7]

- Maintaining a minimum of net assets equal to one-sixth of the written premiums for any 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 with unencumbered assets of at least 40 percent of the gross written premiums from all warranty contracts in force in Florida. Assets must be held in the form of cash or securities and in a separate account that can be audited.[8]

A home warranty association is not required to set up an unearned premium reserve if it has purchased contractual liability insurance policy covering 100 percent of its claim exposure with specified policy provisions. A home warranty association cannot utilize both the unearned premium reserve and contractual liability policy coverage simultaneously.[9]

A home warranty association is not required to establish unearned premium reserves or maintain a contractual liability policy if the association or its parent corporation maintains at least $100 million in net worth and provides proof to OIR in the form of either:[10]

- Audited financial statements of the association or consolidated audited financial statements of the parent corporation, if applicable, demonstrating such net worth, or
- Documents filed with the Securities and Exchange Commission or a recognized stock exchange.

If the net worth of the parent corporation is used to satisfy the net worth requirements of the warranty association, the parent corporation must guarantee all service warranty obligations of the association. The parent corporation must provide written notice to the OIR at least 90 days before the effective date of the cancellation, termination, or modification of the guarantees. Otherwise, such a change is not effective. Further, the home warranty association must demonstrate to OIR compliance with all applicable provisions of Part II of ch. 634, F.S., including whether the association will meet the financial requirements of s. 634.3077, F.S., by the purchase of contractual liability insurance, establishment of reserves or other methods allowed under this section. The home warranty association must maintain net assets of at least $750,000.[11]

Service Warranty Associations

Generally, a service warranty association (association) must be licensed by OIR[12] and comply with certain financial requirements[13] and other provisions[14] to conduct warranty business in Florida. An association licensed under Part III, ch. 634, F.S., must maintain a funded, unearned premium reserve account, consisting of unencumbered assets equal to a minimum of 25 percent of the gross written premiums received on all warranty contracts in force in Florida with

[7] Section 634.3077(1), F.S.
[8] Section 634.3077(2), F.S.
[9] Section 634.3077(3), F.S.
[10] Section 634.3077(5), F.S.
[11] *Id.*
[12] Section 634.403, F.S.
[13] Section 634.406, F.S.
[14] Section 634.404, F.S.

exceptions.[15] Such reserve account must be a separate account, which can be audited, for contracts in force in Florida. An association using an unearned premium reserve must deposit with the Department of Financial Services a reserve deposit equal to 10 percent of the gross written premium received on all warranty contracts in force in Florida.[16]

Pursuant to s. 634.406(3), F.S., an association licensed under Part III, F.S., is not required to establish an unearned premium reserve if the association secures contractual liability insurance from an authorized insurer that demonstrates to OIR that it provides coverage for 100 percent of claim exposure is covered by such policy.

In addition, Florida law requires a service warranty association that holds a license under Part III of ch. 634, F.S., to maintain a writing ratio of gross written premiums to net assets of seven-to-one, meaning for every one dollar of net assets held by the association, the association can write seven dollars of premium.[17] A service warranty association can avoid this minimum writing ratio requirement by meeting the following criteria:

- Maintains net assets of at least $750,000; and
- Secures a contractual liability insurance policy from an authorized insurer that reimburses the association for 100 percent of its claim liability. The insurer must maintain a minimum policyholder surplus of at least $100 million and an "A" or higher credit rating.[18] As an alternative, a service warranty association can comply with s. 634.406(3), F.S., secure contractual liability insurance through an authorized insurer with an "A" or higher rating, and maintains policyholder surplus of at least $200 million, and provides quarterly and annual reports to OIR documenting compliance with these provisions.[19]

An association that is licensed under Part III and does not hold a license under Parts I or II, of ch. 634, F.S., is not required to establish an unearned premium reserve or maintain contractual liability insurance and may allow its premiums to exceed the ratio to net assets limitation if the association, or its parent cooperation, has and maintains a minimum net worth of at least $100 million and provides OIR with the following:[20]

- The annual audited financial statements of the association or the annual audited consolidated financial statements of the association's parent corporation, if applicable, demonstrating compliance with the net worth requirements and provides the OIR with quarterly written certification regarding compliance with the net worth requirement; and
- The association's or its parent corporation's Form 10K, Form 10-Q, or Form 20-F filings made with the Securities and Exchange Commission or such other documents that are required to be filed with the applicable stock exchange.[21]

[15] Section 634.406(1), F.S.
[16] Section 634.406(2), F.S.
[17] Section 634.406 (4) and (6), F.S.
[18] Section 634.406(6), F.S. The credit rating is provided by A.M. Best Company or another national rating service acceptable to OIR.
[19] *Id.*
[20] Section 634.406(7), F.S. If the net worth of a parent corporation is used to satisfy the net worth requirements of the association, additional requirements must be met, as provided in s. 634.406(7)(b), F.S.
[21] These reporting requirements apply to public companies, which has public reporting obligations. Companies are subject to public reporting requirements if they sell securities in a public offering, allow their investor base to reach a certain size, which triggers public reporting obligations, or voluntarily register with the Securities and Exchange Commission. Public Companies | Investor.gov (last visited March 7, 2025).

If the net worth of a parent corporation is used to satisfy the net worth provisions described above, the following requirements must be met:[22]

- The parent corporation must guarantee all service warranty obligations of the association, wherever written, on a form approved in advance by OIR. No cancellation, termination, or modification of the guarantee is effective unless the parent corporation provides 90 days prior written notice to the OIR. Further, the association must demonstrate to OIR compliance with all applicable provisions of Part III, ch. 634, F.S., including whether the association will meet the financial requirements of s. 634.406, F.S., by the purchase of contractual liability insurance, establishment of reserves or other methods allowed under this section. If the parent corporation or association does not demonstrate compliance with all the applicable provisions of Part III, the association or parent corporation must cease writing new and renewal business upon the effective date of the cancellation, termination, or modification.
- The association must maintain net assets of at least $750,000.

III. Effect of Proposed Changes:

Sections 1 amends s. 634.3077, F.S., relating to home warranty associations, to clarify that a warranty association may secure contractual liability coverage through one or more policies from one or more insurers to cover 100 percent of their claim exposure as an alternative to establishing an unearned premium reserve.

Section 2 amends s. 634.406, F.S., relating to service warranty associations, to clarify that a home warranty association may secure contractual liability coverage through one or more policies from one or more insurers to cover 100 percent of their claim exposure as an alternative to establishing an unearned premium reserve.

The bill revises the financial requirements for an applicant or licensee. The bill exempts a service warranty association (association) licensed under Part III of ch. 634, F.S., and that holds no other license under ch. 634, F.S., from securing contractual liability insurance, establishing unearned premium reserves, and complying with premium writing ratios if the association or, if the association is a direct or indirect wholly owned subsidiary of a parent corporation, its parent corporation has, and maintains, a minimum net worth of at least $100 million and provides OIR with one of the following:

- Submits to the Office of Insurance Regulation (OIR) the association's annual audited financial statements or the parent corporation's annual consolidated audited financial statements, if applicable, demonstrating compliance with the net worth requirement. The association or the parent company must also submit a quarterly written certification of compliance with the net worth requirement; *or*
- Submits to OIR the association's or its parent corporation's Form 10K, Form 10-Q, or Form 20-F filings made with the Securities and Exchange Commission or such other documents that are required to be filed with the applicable stock exchange.

Section 3 amends s. 634.414, F.S., relating to service warranty associations, to clarify that all contracts that include coverage for accidental damage from handling must be covered by the contractual liability policy specified in s. 634.406(3), F.S., unless such coverage is issued by an

[22] Section 634.406(7)(b), F.S.

association not required to establish an unearned premium reserve or maintain contractual liability insurance under s. 634.406(7), F.S.

Section 4 provides the bill takes effect July 1, 2025.

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 identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill provides an option for a non-publicly traded service warranty association to forego securing contractual liability insurance, establishing unearned premium reserves, and complying with premium writing ratios if the service warranty association, or its parent corporation, has a net worth of at least $100 million and provides the Office of Insurance Regulation specified audited financial statements, and meets other requirements of s. 634.406(7), F.S.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Sections 1 and 2 of CS/SB 282 provide that a home warranty association or a service warranty association, respectively, may secure contractual liability coverage through an insurer or insurers for a policy or policies. Section 1.01(1), F.S., provides that the singular (e.g., policy or insurer) includes the plural (policies or insurers) and vice versa. To the extent that the OIR is interpreting current references to policy and insurer in the statutes to mean only a single policy, or a single insurer, presumably OIR has determined that context in which these terms are used does not allow for the application of the plural.

VIII. Statutes Affected:

This bill substantially amends sections 634.3077, 634.406, and 634.414 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Banking and Insurance on March 3, 2025:

The CS:

- Clarifies that all service warranty contracts that include coverage for accidental damage from handling must be covered by the contractual liability policy specified in s. 634.406(3), F.S., unless such coverage is issued by an association not required to establish an unearned premium reserve or maintain contractual liability insurance under s. 634.406(7), F.S., because such service warranty association, or its parent corporation, has a net worth of at least $100 million and meets other requirements.
- Revises the title of the bill to be entitled "An act relating to warranty associations."
- Provides technical changes.

B. Amendments:

None.