

By Senator Truenow

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1                   A bill to be entitled  
2       An act relating to home and service warranty  
3       association financial requirements; amending s.  
4       634.3077, F.S.; making technical changes; amending s.  
5       634.406, F.S.; revising the circumstances under which  
6       certain service warranty associations are not required  
7       to establish unearned premium reserves or to maintain  
8       contractual liability insurance and are authorized to  
9       allow their premiums to exceed specified ratios;  
10      providing an effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:

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14       Section 1. Subsection (3) of section 634.3077, Florida  
15 Statutes, is amended to read:

16       634.3077 Financial requirements.—

17       (3) An association may not be required to set up an  
18 unearned premium reserve if it has purchased contractual  
19 liability insurance which demonstrates to the satisfaction of  
20 the office that 100 percent of its claim exposure is covered by  
21 such insurance. Such contractual liability insurance must ~~shall~~  
22 be obtained from an insurer or insurers that hold a certificate  
23 of authority to do business within this ~~the~~ state or from an  
24 insurer or insurers approved by the office as financially  
25 capable of meeting the obligations incurred pursuant to the  
26 policy or policies. For purposes of this subsection, the  
27 contractual liability policy or policies ~~shall~~ must contain the  
28 following provisions:

29       (a) In the event that the home warranty association is

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30 unable to fulfill its obligation under its contracts issued in  
31 this state for any reason, including insolvency, bankruptcy, or  
32 dissolution, the contractual liability insurer or insurers will  
33 pay losses and unearned premiums under such plans directly to  
34 persons making claims under such contracts.

35 (b) The insurer or insurers issuing the policy or policies  
36 shall assume full responsibility for the administration of  
37 claims in the event of the inability of the association to do  
38 so.

39 (c) The policy or policies may not be canceled or not  
40 renewed by the insurer or insurers or the association unless 60  
41 days' written notice thereof has been given to the office by the  
42 insurer or insurers before the date of such cancellation or  
43 nonrenewal.

44 (d) The contractual liability insurance policy or policies  
45 must shall insure all home warranty contracts that were issued  
46 while the policy or policies were ~~was~~ in effect regardless of  
47 whether ~~or not~~ the premium has been remitted to the insurer or  
48 insurers.

49 Section 2. Subsections (3) and (4), paragraphs (b) and (c)  
50 of subsection (6), and paragraph (a) of subsection (7) of  
51 section 634.406, Florida Statutes, are amended to read:

52 634.406 Financial requirements.—

53 (3) An association will not be required to establish an  
54 unearned premium reserve if it has purchased contractual  
55 liability insurance which demonstrates to the satisfaction of  
56 the office that 100 percent of its claim exposure is covered by  
57 such policy or policies. The contractual liability insurance  
58 must shall be obtained from an insurer or insurers that hold

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59 ~~holds~~ a certificate of authority to do business within the  
60 state. For the purposes of this subsection, the contractual  
61 liability policy or policies must ~~shall~~ contain the following  
62 provisions:

63 (a) In the event that the service warranty association does  
64 not fulfill its obligation under contracts issued in this state  
65 for any reason, including insolvency, bankruptcy, or  
66 dissolution, the contractual liability insurer or insurers will  
67 pay losses and unearned premium refunds under such plans  
68 directly to the person making a claim under the contract.

69 (b) The insurer or insurers issuing the contractual  
70 liability policy or policies shall assume full responsibility  
71 for the administration of claims in the event of the inability  
72 of the association to do so.

73 (c) The policy or policies may not be canceled or not  
74 renewed by either the insurer or insurers or the association  
75 unless 60 days' written notice thereof has been given to the  
76 office by the insurer or insurers before the date of such  
77 cancellation or nonrenewal.

78 (d) The contractual liability insurance policy or policies  
79 must ~~shall~~ insure all service warranty contracts which were  
80 issued while the policy or policies were ~~was~~ in effect  
81 regardless of whether or not the premium has been remitted to  
82 the insurer or insurers.

83 (e) In the event the issuer or issuers of the contractual  
84 liability policy or policies ~~is~~ fulfilling the service  
85 warranty covered by policy or policies and in the event the  
86 service warranty holder cancels the service warranty, it is the  
87 responsibility of the contractual liability policy issuer or

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88 issuers to effectuate a full refund of unearned premium to the  
 89 consumer. This refund is ~~shall be~~ subject to the cancellation  
 90 fee provisions of s. 634.414. The salesperson or agent shall  
 91 refund to the contractual liability policy issuer or issuers the  
 92 unearned pro rata commission.

93 (f) An association may not use ~~utilize~~ both the unearned  
 94 premium reserve and contractual liability insurance  
 95 simultaneously. However, an association is ~~shall be~~ allowed to  
 96 have contractual liability coverage on service warranties  
 97 previously sold and sell new service warranties covered by the  
 98 unearned premium reserve, and the converse of this is ~~shall~~ also  
 99 ~~be~~ allowed. An association must be able to distinguish how each  
 100 individual service warranty is covered.

101 (4) No warrantor may allow its gross written premiums in  
 102 force to exceed a 7-to-1 ratio to net assets; however, a company  
 103 may exceed this requirement if:

104 (a) The company:

105 1.(a) ~~1.(a)~~ Holds licenses issued pursuant to the provisions of  
 106 part I and this part; ~~and~~

107 2.(b) ~~2.(b)~~ Maintains net assets of at least \$2.5 million; ~~and~~

108 3.(e) ~~3.(e)~~ Uses ~~Utilizes~~ contractual liability insurance which  
 109 reimburses the service warranty association for 100 percent of  
 110 its paid claims; ~~and~~

111 (b)(d) ~~(b)(d)~~ The insurer or insurers issuing the contractual  
 112 liability insurance policy or policies maintain ~~maintains~~ a  
 113 policyholder surplus of at least \$100 million and are ~~is~~ rated  
 114 "A" or higher by A.M. Best Company.

115 (6) An association that holds a license under this part may  
 116 allow its premiums for service warranties written under this

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117 part to exceed the ratio to net assets limitations of this  
 118 section if the association meets all of the following:

119 (b) Uses a contractual liability insurance policy or  
 120 policies approved by the office that:

121 1. Reimburse ~~Reimburses~~ the service warranty association  
 122 for 100 percent of their ~~its~~ claims liability and are ~~is~~ issued  
 123 by an insurer or insurers that maintain ~~maintains~~ a policyholder  
 124 surplus of at least \$100 million; or

125 2. Comply ~~Complies~~ with subsection (3) and are ~~is~~ issued by  
 126 an insurer or insurers that maintain ~~maintains~~ a policyholder  
 127 surplus of at least \$200 million.

128 (c) The insurer or insurers issuing the contractual  
 129 liability insurance policy or policies:

130 1. Are ~~is~~ rated "A" or higher by A.M. Best Company or an  
 131 equivalent rating by another national rating service acceptable  
 132 to the office.

133 2. In conjunction with the warranty association's filing of  
 134 the quarterly and annual reports, provide ~~provides~~, on a form  
 135 prescribed by the commission, a statement certifying the gross  
 136 written premiums in force reported by the warranty association  
 137 and a statement that all of the warranty association's gross  
 138 written premium in force is covered under the contractual  
 139 liability policy or policies, regardless of whether it has been  
 140 reported.

141 (7) An association licensed under this part and holding no  
 142 other license under part I or part II of this chapter is not  
 143 required to establish an unearned premium reserve or maintain  
 144 contractual liability insurance and may allow its premiums to  
 145 exceed the ratio to net assets limitation of this section if the

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146 association complies with one of the following:

147 (a) The association or, if the association is a direct or  
148 indirect wholly owned subsidiary of a parent corporation, its  
149 parent corporation has, and maintains at all times, a minimum  
150 net worth of at least \$100 million and provides the office with  
151 one of the following:

152 1. A copy of the association's annual audited financial  
153 statements or the audited consolidated financial statements of  
154 the association's parent corporation, prepared by an independent  
155 certified public accountant in accordance with generally  
156 accepted accounting principles, which clearly demonstrate the  
157 net worth of the association or its parent corporation to be  
158 \$100 million and a quarterly written certification to the office  
159 that such entity continues to maintain the net worth required  
160 under this paragraph.

161 2. The association's, or its parent corporation's, Form 10-  
162 K, Form 10-Q, or Form 20-F as filed with the United States  
163 Securities and Exchange Commission or such other documents  
164 required to be filed with a recognized stock exchange, which  
165 shall be provided on a quarterly and annual basis within 10 days  
166 after the last date each such report must be filed with the  
167 Securities and Exchange Commission, the National Association of  
168 Security Dealers Automated Quotation system, or other recognized  
169 stock exchange.

170  
171 Failure to timely file the documents required under this  
172 paragraph may, at the discretion of the office, subject the  
173 association to suspension or revocation of its license under  
174 this part.

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Section 3. This act shall take effect July 1, 2025.