

Amendment No.1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED (Y/N)
ADOPTED AS AMENDED (Y/N)
ADOPTED W/O OBJECTION (Y/N)
FAILED TO ADOPT (Y/N)
WITHDRAWN (Y/N)
OTHER

1 Committee/Subcommittee hearing bill: Commerce Committee
2 Representative Yeager offered the following:

3
4 **Amendment (with title amendment)**

5 Remove lines 52-101 and insert:

6 (e) The policy or policies may either pay 100 percent of
7 claims as they are incurred, or pay 100 percent of claims due in
8 the event of the association's failure to pay claims when due.

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

12 634.406 Financial requirements.-

13 (3) An association will not be required to establish an
14 unearned premium reserve if it has purchased contractual
15 liability insurance which demonstrates to the satisfaction of
16 the office that 100 percent of its claim exposure is covered by

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17 such policy or policies. The contractual liability insurance
18 shall be obtained from an insurer or insurers that hold ~~holds~~ a
19 certificate of authority to do business within the state. For
20 the purposes of this subsection, the contractual liability
21 policy or policies shall contain the following provisions:

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

28 (b) The insurer or insurers issuing the contractual
29 liability policy or policies shall assume full responsibility
30 for the administration of claims in the event of the inability
31 of the association to do so.

32 (c) The policy or policies may not be canceled or not
33 renewed by either the insurer or insurers or the association
34 unless 60 days' written notice thereof has been given to the
35 office by the insurer or insurers before the date of such
36 cancellation or nonrenewal.

37 (d) The contractual liability insurance policy or policies
38 shall insure all service warranty contracts which were issued
39 while the policy or policies were ~~was~~ in effect whether or not
40 the premium has been remitted to the insurer or insurers.

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41 (e) In the event the issuer or issuers of the contractual
42 liability policy or policies are ~~is~~ fulfilling the service
43 warranty covered by policy or policies and in the event the
44 service warranty holder cancels the service warranty, it is the
45 responsibility of the contractual liability policy issuer or
46 issuers to effectuate a full refund of unearned premium to the
47 consumer. This refund shall be subject to the cancellation fee
48 provisions of s. 634.414. The salesperson or agent shall refund
49 to the contractual liability policy issuer or issuers the
50 unearned pro rata commission.

51 (f) An association may not utilize both the unearned
52 premium reserve and contractual liability insurance
53 simultaneously. However, an association shall be allowed to have
54 contractual liability coverage on service warranties previously
55 sold and sell new service warranties covered by the unearned
56 premium reserve, and the converse of this shall also be allowed.
57 An association must be able to distinguish how each individual
58 service warranty is covered.

59 (g) The policy or policies may either pay 100 percent of
60 claims as they are incurred, or pay 100 percent of claims due in
61 the event of the association's failure to pay claims when due.

62 -----
63
64 **T I T L E A M E N D M E N T**

65 Remove lines 4-9 and insert:

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66 | 634.3077, F.S.; making technical changes; revising the
67 | requirements for the contractual liability policies;
68 | amending s. 634.406, F.S.; revising the circumstances
69 | under which certain service warranty associations are
70 | not required to establish unearned premium reserves or
71 | to maintain contractual liability insurance and are
72 | authorized to allow their premiums to exceed specified
73 | ratios; revising the requirements for the contractual
74 | liability policies;