

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:

13
 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 shall be
 22 obtained from an insurer or insurers that hold a certificate of
 23 authority to do business within the state or from an insurer or
 24 insurers approved by the office as financially capable of
 25 meeting the obligations incurred pursuant to the policy or

26 policies. For purposes of this subsection, the contractual
27 liability policy or policies shall contain the following
28 provisions:

29 (a) In the event that the home warranty association is
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 shall insure all home warranty contracts that were issued while
46 the policy or policies were ~~was~~ in effect whether or not the
47 premium has been remitted to the insurer or insurers.

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

51 634.406 Financial requirements.—

52 (3) An association will not be required to establish an
53 unearned premium reserve if it has purchased contractual
54 liability insurance which demonstrates to the satisfaction of
55 the office that 100 percent of its claim exposure is covered by
56 such policy or policies. The contractual liability insurance
57 shall be obtained from an insurer or insurers that hold ~~holds~~ a
58 certificate of authority to do business within the state. For
59 the purposes of this subsection, the contractual liability
60 policy or policies shall contain the following provisions:

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

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

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

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

80 (e) In the event the issuer or issuers of the contractual
81 liability policy or policies are ~~is~~ fulfilling the service
82 warranty covered by policy or policies and in the event the
83 service warranty holder cancels the service warranty, it is the
84 responsibility of the contractual liability policy issuer or
85 issuers to effectuate a full refund of unearned premium to the
86 consumer. This refund shall be subject to the cancellation fee
87 provisions of s. 634.414. The salesperson or agent shall refund
88 to the contractual liability policy issuer or issuers the
89 unearned pro rata commission.

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

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

101 (a) The company:

102 1.~~(a)~~ Holds licenses issued pursuant to the provisions of

103 part I and this part;~~;~~ and

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

105 3.~~(c)~~ Utilizes contractual liability insurance which

106 reimburses the service warranty association for 100 percent of

107 its paid claims;~~;~~ and

108 (b)~~(d)~~ The insurer or insurers issuing the contractual

109 liability insurance policy or policies maintain ~~maintains~~ a

110 policyholder surplus of at least \$100 million and are ~~is~~ rated

111 "A" or higher by A.M. Best Company.

112 (6) An association that holds a license under this part

113 may allow its premiums for service warranties written under this

114 part to exceed the ratio to net assets limitations of this

115 section if the association meets all of the following:

116 (b) Uses a contractual liability insurance policy or

117 policies approved by the office that:

118 1. Reimburse ~~Reimburses~~ the service warranty association

119 for 100 percent of their ~~its~~ claims liability and are ~~is~~ issued

120 by an insurer or insurers that maintain ~~maintains~~ a policyholder

121 surplus of at least \$100 million; or

122 2. Comply ~~Complies~~ with subsection (3) and are ~~is~~ issued

123 by an insurer or insurers that maintain ~~maintains~~ a policyholder

124 surplus of at least \$200 million.

125 (c) The insurer or insurers issuing the contractual

126 liability insurance policy or policies:

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

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

138 (7) Notwithstanding s. 634.401(13)(c), an association
139 licensed under this part and holding no other license under part
140 I or part II of this chapter is not required to establish an
141 unearned premium reserve or maintain contractual liability
142 insurance and may allow its premiums to exceed the ratio to net
143 assets limitation of this section if the association complies
144 with one of the following:

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

150 1. A copy of the association's annual audited financial

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

159 2. The association's, or its parent corporation's, Form
160 10-K, Form 10-Q, or Form 20-F as filed with the United States
161 Securities and Exchange Commission or such other documents
162 required to be filed with a recognized stock exchange, which
163 shall be provided on a quarterly and annual basis within 10 days
164 after the last date each such report must be filed with the
165 Securities and Exchange Commission, the National Association of
166 Security Dealers Automated Quotation system, or other recognized
167 stock exchange.

168
169 Failure to timely file the documents required under this
170 paragraph may, at the discretion of the office, subject the
171 association to suspension or revocation of its license under
172 this part.

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