

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 amending s. 634.414, F.S.; requiring service warranty
 11 contracts that include coverage for certain accidental
 12 damage to be covered by contractual liability
 13 policies; providing exceptions; providing an effective
 14 date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 **Section 1. Subsection (3) of section 634.3077, Florida**
 19 **Statutes, is amended to read:**

20 634.3077 Financial requirements.—

21 (3) An association may not be required to set up an
 22 unearned premium reserve if it has purchased contractual
 23 liability insurance which demonstrates to the satisfaction of
 24 the office that 100 percent of its claim exposure is covered by
 25 such insurance. Such contractual liability insurance shall be

26 | obtained from an insurer or insurers that hold a certificate of
27 | authority to do business within the state or from an insurer or
28 | insurers approved by the office as financially capable of
29 | meeting the obligations incurred pursuant to the policy or
30 | policies. For purposes of this subsection, the contractual
31 | liability policy or policies shall contain the following
32 | provisions:

33 | (a) In the event that the home warranty association is
34 | unable to fulfill its obligation under its contracts issued in
35 | this state for any reason, including insolvency, bankruptcy, or
36 | dissolution, the contractual liability insurer or insurers will
37 | pay losses and unearned premiums under such plans directly to
38 | persons making claims under such contracts.

39 | (b) The insurer or insurers issuing the policy or policies
40 | shall assume full responsibility for the administration of
41 | claims in the event of the inability of the association to do
42 | so.

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

48 | (d) The contractual liability insurance policy or policies
49 | shall insure all home warranty contracts that were issued while
50 | the policy or policies were ~~was~~ in effect whether or not the

51 premium has been remitted to the insurer or insurers.

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

55 634.406 Financial requirements.—

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

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

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

75 (c) The policy or policies may not be canceled or not

76 renewed by either the insurer or insurers or the association
77 unless 60 days' written notice thereof has been given to the
78 office by the insurer or insurers before the date of such
79 cancellation or nonrenewal.

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

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

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

101 service warranty is covered.

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

105 (a) The company:

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

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

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

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

116 (6) An association that holds a license under this part
 117 may allow its premiums for service warranties written under this
 118 part to exceed the ratio to net assets limitations of this
 119 section if the association meets all of the following:

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

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

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

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

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

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

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

148 (a) The association or, if the association is a direct or
 149 indirect wholly owned subsidiary of a parent corporation, its
 150 parent corporation has, and maintains at all times, a minimum

151 net worth of at least \$100 million and provides the office with
152 one of the following:

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

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

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

176 **Section 3. Subsection (5) is added to section 634.414,**
 177 **Florida Statutes, to read:**

178 634.414 Forms; required provisions.—

179 (5) Each service warranty contract that includes coverage
 180 for accidental damage from handling must be covered by the
 181 contractual liability policy referred to in s. 634.406(3),
 182 unless issued by an association not required to establish an
 183 unearned premium reserve or maintain contractual liability
 184 insurance under s. 634.406(7).

185 **Section 4.** This act shall take effect July 1, 2025.