

Amendment No.

CHAMBER ACTION

Senate

House

.

1 Representative Kelly offered the following:

2
3 **Amendment (with title amendment)**

4 Remove line 200 and insert:

5 Section 4. Effective upon this act becoming a law,
6 paragraph (b) of subsection (1) of section 628.4615, Florida
7 Statutes, is amended to read:

8 628.4615 Specialty insurers; acquisition of controlling
9 stock, ownership interest, assets, or control; merger or
10 consolidation.—

11 (1) For the purposes of this section, the term "specialty
12 insurer" means any person holding a license or certificate of
13 authority as:

14 (b) A home warranty association authorized to issue "home
15 warranties" as those terms are defined in s. 634.301(3) and (4);

842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

16 Section 5. Effective upon this act becoming a law,
17 subsection (8) of section 634.011, Florida Statutes, is amended
18 to read:

19 634.011 Definitions.—As used in this part, the term:

20 (8) "Motor vehicle service agreement" or "service
21 agreement" means any contract or agreement indemnifying the
22 service agreement holder for the motor vehicle listed on the
23 service agreement and arising out of the ownership, operation,
24 and use of the motor vehicle against loss caused by failure of
25 any mechanical or other component part, or any mechanical or
26 other component part that does not function as it was originally
27 intended; however, nothing in this part shall prohibit or affect
28 the giving, free of charge, of the usual performance guarantees
29 by manufacturers or dealers in connection with the sale of motor
30 vehicles. Transactions exempt under s. 624.125 are expressly
31 excluded from this definition and are exempt from the provisions
32 of this part. Service agreements that are sold to persons other
33 than consumers and that cover motor vehicles used for commercial
34 purposes are excluded from this definition and are exempt from
35 regulation under the Florida Insurance Code. The term "motor
36 vehicle service agreement" includes any contract or agreement
37 that provides:

38 (a) For the coverage or protection defined in this
39 subsection and which is issued or provided in conjunction with
40 an additive product applied to the motor vehicle that is the
41 subject of such contract or agreement;

42 (b) For payment of vehicle protection expenses.

842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

43 1.a. "Vehicle protection expenses" means a preestablished
44 flat amount payable for the loss of or damage to a vehicle or
45 expenses incurred by the service agreement holder for loss or
46 damage to a covered vehicle, including, but not limited to,
47 applicable deductibles under a motor vehicle insurance policy;
48 temporary vehicle rental expenses; expenses for a replacement
49 vehicle that is at least the same year, make, and model of the
50 stolen motor vehicle; sales taxes or registration fees for a
51 replacement vehicle that is at least the same year, make, and
52 model of the stolen vehicle; or other incidental expenses
53 specified in the agreement.

54 b. "Vehicle protection product" means a product or system
55 installed or applied to a motor vehicle or designed to prevent
56 the theft of the motor vehicle or assist in the recovery of the
57 stolen motor vehicle.

58 2. Vehicle protection expenses shall be payable in the
59 event of loss or damage to the vehicle as a result of the
60 failure of the vehicle protection product to prevent the theft
61 of the motor vehicle or to assist in the recovery of the stolen
62 motor vehicle. Vehicle protection expenses covered under the
63 agreement shall be clearly stated in the service agreement form,
64 unless the agreement provides for the payment of a
65 preestablished flat amount, in which case the service agreement
66 form shall clearly identify such amount.

67 3. Motor vehicle service agreements providing for the
68 payment of vehicle protection expenses shall either:

69 a. Reimburse a service agreement holder for the following
70 expenses, at a minimum: deductibles applicable to comprehensive
842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

71 coverage under the service agreement holder's motor vehicle
72 insurance policy; temporary vehicle rental expenses; sales taxes
73 and registration fees on a replacement vehicle that is at least
74 the same year, make, and model of the stolen motor vehicle; and
75 the difference between the benefits paid to the service
76 agreement holder for the stolen vehicle under the service
77 agreement holder's comprehensive coverage and the actual cost of
78 a replacement vehicle that is at least the same year, make, and
79 model of the stolen motor vehicle; or

80 b. Pay a preestablished flat amount to the service
81 agreement holder.

82
83 Payments shall not duplicate any benefits or expenses paid to
84 the service agreement holder by the insurer providing
85 comprehensive coverage under a motor vehicle insurance policy
86 covering the stolen motor vehicle; however, the payment of
87 vehicle protection expenses at a preestablished flat amount of
88 \$5,000 or less does not duplicate any benefits or expenses
89 payable under any comprehensive motor vehicle insurance policy;
90 or

91 (c)1. For the payment for paintless dent-removal services
92 provided by a company whose primary business is providing such
93 services.

94 2. "Paintless dent-removal" means the process of removing
95 dents, dings, and creases, including hail damage, from a vehicle
96 without affecting the existing paint finish, but does not
97 include services that involve the replacement of vehicle body
98 panels or sanding, bonding, or painting.

842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

99 Section 6. Effective upon this act becoming a law,
100 subsection (7) is added to section 634.031, Florida Statutes, to
101 read:

102 634.031 License required.—

103 (7) Any person who violates this section commits, in
104 addition to any other violation, a misdemeanor of the first
105 degree, punishable as provided in s. 775.082 or s. 775.083.

106 Section 7. Effective upon this act becoming a law,
107 paragraph (b) of subsection (8) and paragraph (b) of subsection
108 (11) of section 634.041, Florida Statutes, are amended to read:

109 634.041 Qualifications for license.—To qualify for and
110 hold a license to issue service agreements in this state, a
111 service agreement company must be in compliance with this part,
112 with applicable rules of the commission, with related sections
113 of the Florida Insurance Code, and with its charter powers and
114 must comply with the following:

115 (8)

116 (b) A service agreement company does not have to establish
117 and maintain an unearned premium reserve if it purchases and
118 maintains contractual liability insurance in accordance with the
119 following:

120 1. The insurance covers 100 percent of its claim exposure
121 and is obtained from an insurer approved by the office which
122 holds a certificate of authority to do business within this
123 state.

124 2. If the service agreement company does not meet its
125 contractual obligations, the contractual liability insurance
126 policy binds its issuer to pay or cause to be paid to the

842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

127 service agreement holder all legitimate claims and cancellation
128 refunds for all service agreements issued by the service
129 agreement company while the policy was in effect. This
130 requirement also applies to those service agreements for which
131 no premium has been remitted to the insurer.

132 3. If the issuer of the contractual liability policy is
133 fulfilling the service agreements covered by the contractual
134 liability policy and the service agreement holder cancels the
135 service agreement, the issuer must make a full refund of
136 unearned premium to the consumer, subject to the cancellation
137 fee provisions of s. 634.121(3)~~(5)~~. The sales representative and
138 agent must refund to the contractual liability policy issuer
139 their unearned pro rata commission.

140 4. The policy may not be canceled, terminated, or
141 nonrenewed by the insurer or the service agreement company
142 unless a 90-day written notice thereof has been given to the
143 office by the insurer before the date of the cancellation,
144 termination, or nonrenewal.

145 5. The service agreement company must provide the office
146 with the claims statistics.

147
148 All funds or premiums remitted to an insurer by a motor vehicle
149 service agreement company under this part shall remain in the
150 care, custody, and control of the insurer and shall be counted
151 as an asset of the insurer; provided, however, this requirement
152 does not apply when the insurer and the motor vehicle service
153 agreement company are affiliated companies and members of an
154 insurance holding company system. If the motor vehicle service

842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

155 agreement company chooses to comply with this paragraph but also
156 maintains a reserve to pay claims, such reserve shall only be
157 considered an asset of the covered motor vehicle service
158 agreement company and may not be simultaneously counted as an
159 asset of any other entity.

160 (11)

161 (b) Notwithstanding any other requirement of this part, a
162 service agreement company maintaining an unearned premium
163 reserve on all service agreements in accordance with paragraph
164 (8) (a) may offer service agreements providing vehicle protection
165 expenses if it maintains contractual liability insurance only on
166 all service agreements providing vehicle protection expenses and
167 continues to maintain the 50-percent reserve for all service
168 agreements not providing vehicle protection expenses. A service
169 agreement company maintaining contractual liability insurance
170 for all service agreements providing vehicle protection expenses
171 and the 50-percent reserve for all other service agreements
172 must, in the service agreement register as required under s.
173 634.136~~(2)~~(4), distinguish between insured service agreements
174 providing vehicle protection expenses and service agreements not
175 providing vehicle protection expenses.

176 Section 8. Effective upon this act becoming a law,
177 paragraph (d) is added to subsection (3) of section 634.095,
178 Florida Statutes, and subsection (7) is added to that section,
179 to read:

180 634.095 Prohibited acts.—Any service agreement company or
181 salesperson that engages in one or more of the following acts
182 is, in addition to any applicable denial, suspension,

842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

183 revocation, or refusal to renew or continue any appointment or
184 license, guilty of a misdemeanor of the second degree,
185 punishable as provided in s. 775.082 or s. 775.083:

186 (3) Issuing or causing to be issued any advertisement
187 which:

188 (d) Is false, deceptive, or misleading with respect to:

189 1. The service agreement company's affiliation with a
190 motor vehicle manufacturer;

191 2. The service agreement company's possession of
192 information regarding a motor vehicle owner's current motor
193 vehicle manufacturer's original equipment warranty;

194 3. The expiration of a motor vehicle owner's current motor
195 vehicle manufacturer's original equipment warranty; or

196 4. Any requirement that the motor vehicle owner register
197 for a new motor vehicle service agreement with the company in
198 order to maintain coverage under the current motor vehicle
199 service agreement or manufacturer's original equipment warranty.

200 (7) Remitting premiums received on motor vehicle service
201 agreements sold to any person other than the licensed service
202 agreement company that is obligated to perform under such
203 agreement, if the agreement between such company and the
204 salesperson requires that premiums be submitted directly to the
205 service agreement company.

206 Section 9. Effective upon this act becoming a law, section
207 634.121, Florida Statutes, is amended to read:

208 634.121 ~~Filing of Forms, required procedures, provisions.-~~

209 ~~(1) A service agreement form or related form may not be~~
210 ~~issued or used in this state unless it has been filed with and~~
842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

211 ~~approved by the office. Upon application for a license, the~~
212 ~~office shall require the applicant to submit for approval each~~
213 ~~brochure, pamphlet, circular, form letter, advertisement, or~~
214 ~~other sales literature or advertising communication addressed or~~
215 ~~intended for distribution. The office shall disapprove any~~
216 ~~document which is untrue, deceptive, or misleading or which~~
217 ~~contains misrepresentations or omissions of material facts.~~

218 ~~(a) After an application has been approved, a licensee is~~
219 ~~not required to submit brochures or advertisement to the office~~
220 ~~for approval; however, a licensee may not have published, and a~~
221 ~~person may not publish, any brochure or advertisement which is~~
222 ~~untrue, deceptive, or misleading or which contains~~
223 ~~misrepresentations or omissions of material fact.~~

224 ~~(b) For purposes of this section, brochures and~~
225 ~~advertising includes, but is not limited to, any report,~~
226 ~~circular, public announcement, certificate, or other printed~~
227 ~~matter or advertising material which is designed or used to~~
228 ~~solicit or induce any persons to enter into any motor vehicle~~
229 ~~service agreement.~~

230 ~~(c) The office shall disapprove any service agreement form~~
231 ~~providing vehicle protection expenses which does not clearly~~
232 ~~indicate either the method for calculating the benefit to be~~
233 ~~paid or provided to the service agreement holder or the~~
234 ~~preestablished flat amount payable pursuant to the terms of the~~
235 ~~service agreement. All service agreement forms providing vehicle~~
236 ~~protection expenses shall clearly indicate the term of the~~
237 ~~service agreement, whether new or used cars are eligible for the~~
238 ~~vehicle protection product, and that the service agreement~~

842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

239 ~~holder may not make any claim against the Florida Insurance~~
240 ~~Guarantee Association for vehicle protection expenses. The~~
241 ~~service agreement shall be provided to a service agreement~~
242 ~~holder on a form that provides only vehicle protection expenses.~~
243 ~~A service agreement form providing vehicle protection expenses~~
244 ~~must state that the service agreement holder must have in force~~
245 ~~at the time of loss comprehensive motor vehicle insurance~~
246 ~~coverage as a condition precedent to requesting payment of~~
247 ~~vehicle protection expenses.~~

248 ~~(2) Every filing required under this section must be made~~
249 ~~not less than 30 days in advance of issuance or use. At the~~
250 ~~expiration of 30 days from the date of filing, a form so filed~~
251 ~~becomes approved unless prior thereto it has been affirmatively~~
252 ~~disapproved by written notice of the office. The office may~~
253 ~~extend by not more than an additional 15 days the period within~~
254 ~~which it may affirmatively approve or disapprove any form by~~
255 ~~giving notice of extension before the expiration of the initial~~
256 ~~30-day period. At the expiration of any period as so extended~~
257 ~~and in the absence of prior affirmative disapproval, the form~~
258 ~~becomes approved.~~

259 ~~(1)(3)~~ Before the sale of any service agreement, written
260 notice must be given to the prospective purchaser by the service
261 agreement company or its agent or salesperson, ~~on an office-~~
262 ~~approved form,~~ that purchase of the service agreement is not
263 required in order to purchase or obtain financing for a motor
264 vehicle.

265 ~~(2)(4)~~ All motor vehicle service agreements are assignable
266 in a consumer transaction and must contain a statement in

842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

267 conspicuous, boldfaced type, informing the purchaser of the
268 service agreement of her or his right to assign it to a
269 subsequent retail purchaser of the motor vehicle covered by the
270 service agreement and all conditions on such right of transfer.
271 The assignment must occur within a period of time specified in
272 the agreement, which period may not expire earlier than 15 days
273 after the date of the sale or transfer of the motor vehicle. The
274 service agreement company may charge an assignment fee not to
275 exceed \$40.

276 ~~(3)-(5)~~ (a) Each service agreement must contain a
277 cancellation provision. Any service agreement is cancelable by
278 the purchaser within 60 days after purchase. The refund must be
279 100 percent of the gross premium paid, less any claims paid on
280 the agreement. A reasonable administrative fee may be charged
281 not to exceed 5 percent of the gross premium paid by the
282 agreement holder.

283 (b) After the service agreement has been in effect for 60
284 days, it may not be canceled by the insurer or service agreement
285 company unless:

286 1. There has been a material misrepresentation or fraud at
287 the time of sale of the service agreement;

288 2. The agreement holder has failed to maintain the motor
289 vehicle as prescribed by the manufacturer;

290 3. The odometer has been tampered with or disabled and the
291 agreement holder has failed to repair the odometer; or

292 4. For nonpayment of premium by the agreement holder, in
293 which case the service agreement company shall provide the
294 agreement holder notice of cancellation by certified mail.

842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

295
296 If the service agreement is canceled by the insurer or service
297 agreement company, the return of premium must not be less than
298 100 percent of the paid unearned pro rata premium, less any
299 claims paid on the agreement. If, after 60 days, the service
300 agreement is canceled by the service agreement holder, the
301 insurer or service agreement company shall return directly to
302 the agreement holder not less than 90 percent of the unearned
303 pro rata premium, less any claims paid on the agreement. The
304 service agreement company remains responsible for full refunds
305 to the consumer on canceled service agreements. However, the
306 salesperson and agent are responsible for the refund of the
307 unearned pro rata commission. A service agreement company may
308 effectuate refunds through the issuing salesperson or agent.

309 (4)~~(6)~~ If the service agreement is canceled, pursuant to
310 an order of liquidation, the salesperson or agent is responsible
311 for refunding, and must refund, to the receiver the unearned pro
312 rata commission.

313 (5)~~(7)~~ If a service agreement company violates any lawful
314 order of the office or fails to meet its contractual obligations
315 under this part, upon notice from the office, the sales
316 representative or agent must refund to the service agreement
317 holder the unearned pro rata commission, unless the sales
318 representative or agent has made other arrangements,
319 satisfactory to the office, with the service agreement holder.

320 (6)~~(8)~~ Each service agreement, which includes a copy of
321 the application form, must be mailed or delivered to the
322 agreement holder within 45 days after the date of purchase.

842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

323 ~~(7)(9)~~ Each service agreement form must contain in
324 conspicuous, boldfaced type any statement or clause that places
325 restrictions or limitations on the benefits offered or disclose
326 such restrictions or limitations in regular type in a section of
327 the service agreement containing a conspicuous, boldfaced type
328 heading.

329 ~~(8)(10)~~ If an insurer or service agreement company intends
330 to use or require the use of remanufactured or used replacement
331 parts, each service agreement form as well as all service
332 agreement brochures must contain in conspicuous, boldfaced type
333 a statement to that effect.

334 ~~(9)(11)~~ Each service agreement form as well as all service
335 agreement company sales brochures must clearly identify the
336 name, address, and Florida license number of the licensed
337 insurer or service agreement company.

338 ~~(10)(12)~~ If a service agreement contains a rental car
339 provision, it must disclose the terms and conditions of this
340 benefit in conspicuous, boldfaced type or disclose such
341 restrictions or limitations in regular type in a section of the
342 service agreement containing a conspicuous, boldfaced type
343 heading.

344 (11) By July 1, 2011, each service agreement sold in this
345 state must be accompanied by a written disclosure to the
346 consumer that the rate charged for the service agreement is not
347 subject to regulation by the office. A service agreement company
348 may comply with this requirement by including such disclosure in
349 its service agreement form or in a separate written notice
350 provided to the consumer at the time of sale.

842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

351 Section 10. Effective upon this act becoming a law,
352 section 634.1213, Florida Statutes, is amended to read:

353 634.1213 Noncompliant forms ~~Grounds for disapproval.~~—The
354 office may order a service agreement company to stop using
355 ~~disapprove~~ any service agreement form that ~~or service agreement~~
356 ~~company sales brochures filed under s. 634.121, or withdraw any~~
357 ~~previous approval thereof, if the form or brochure:~~

358 (1) Is in any respect in violation of or does not comply
359 with this part, any applicable provision of the Florida
360 Insurance Code, or any applicable rule of the office ~~commission~~.

361 (2) Contains or incorporates by reference when such
362 incorporation is otherwise permissible, any inconsistent,
363 ambiguous, or misleading clauses, or exceptions and conditions
364 which deceptively affect the risk purported to be assumed in the
365 general coverage of the service agreement.

366 (3) Has any title, heading, or other indication of its
367 provisions which is misleading.

368 (4) Is printed or otherwise reproduced in such manner as
369 to render any material provision of the form substantially
370 illegible.

371 (5) Contains any provision which is unfair or inequitable
372 or which encourages misrepresentation.

373 (6) Contains any provision which makes it difficult to
374 determine the actual insurer or service agreement company
375 issuing the form.

376 (7) Contains any provision for reducing claim payments due
377 to depreciation of parts, except for marine engines.

842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

378 Section 11. Effective upon this act becoming a law,
379 subsection (1) of section 634.137, Florida Statutes, is amended
380 to read:

381 634.137 Financial and statistical reporting requirements.—

382 (1) By March 1 of each year, each service agreement
383 company shall submit to the office annual financial reports on
384 forms prescribed by the commission and furnished by the office
385 ~~as follows:~~

386 ~~(a) Reports for a period ending December 31 are due by~~
387 ~~March 1.~~

388 ~~(b) Reports for a period ending March 31 are due by May~~
389 ~~15.~~

390 ~~(c) Reports for a period ending June 30 are due by August~~
391 ~~15.~~

392 ~~(d) Reports for a period ending September 30 are due by~~
393 ~~November 15.~~

394 Section 12. Effective upon this act becoming a law,
395 section 634.141, Florida Statutes, is amended to read:

396 634.141 Examination of companies.—

397 (1) Motor vehicle service agreement companies licensed
398 under this part may ~~shall~~ be subject to periodic examination by
399 the office in the same manner and subject to the same terms and
400 conditions as applies to insurers under part II of chapter 624.
401 The commission may by rule establish provisions whereby a
402 company may be exempted from examination.

403 (2) The office shall determine whether to conduct an
404 examination of a company by considering:

842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

405 (a) The amount of time that the company has been
406 continuously licensed and operating under the same management
407 and control.

408 (b) The company's history of compliance with applicable
409 law.

410 (c) The number of consumer complaints against the company.

411 (d) The financial condition of the company, demonstrated
412 by the financial reports submitted pursuant to s. 634.137.

413 Section 13. Effective upon this act becoming a law,
414 paragraph (b) of subsection (1) of section 634.1815, Florida
415 Statutes, is amended to read:

416 634.1815 Rebating; when allowed.—

417 (1) No salesperson shall rebate any portion of his or her
418 commission except as follows:

419 (b) The rebate shall be in accordance with a rebating
420 schedule filed with and approved by the ~~salesperson with the~~
421 service agreement company issuing the service agreement to which
422 the rebate applies. The service agreement company shall maintain
423 a copy of all rebating schedules for a period of 3 years.

424 Section 14. Effective upon this act becoming a law,
425 subsection (13) of section 634.282, Florida Statutes, is
426 amended, and subsection (17) is added to that section, to read:

427 634.282 Unfair methods of competition and unfair or
428 deceptive acts or practices defined.—The following methods,
429 acts, or practices are defined as unfair methods of competition
430 and unfair or deceptive acts or practices:

431 (13) ILLEGAL DEALINGS IN PREMIUMS; EXCESS OR REDUCED
432 CHARGES FOR MOTOR VEHICLE SERVICE AGREEMENTS.—

842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

433 (a) Knowingly collecting any sum as a premium or charge
434 for a motor vehicle service agreement, which is not then
435 provided, or is not in due course to be provided, subject to
436 acceptance of the risk by a service agreement company or an
437 insurer, by a motor vehicle service agreement issued by a
438 service agreement company or an insurer as permitted by this
439 part.

440 (b) Knowingly collecting as a premium or charge for a
441 motor vehicle service agreement any sum in excess of or less
442 than the premium or charge applicable to such motor vehicle
443 service agreement, ~~in accordance with the applicable~~
444 ~~classifications and rates as filed with the office, and as~~
445 ~~specified in the motor vehicle service agreement. However, there~~
446 is no violation of this subsection if excess premiums or charges
447 are refunded to the service agreement holder within 45 days
448 after receipt of the agreement by the service agreement company
449 or if the licensed sales representative's commission is reduced
450 by the amount of any premium undercharge.

451 (17) FAILURE TO PROVIDE TERMS AND CONDITIONS PRIOR TO
452 SALE.—Failing to provide a consumer with a complete sample copy
453 of the terms and conditions of the service agreement prior to
454 the time of sale upon a request for the same by the consumer. A
455 service agreement company may comply with this subsection by
456 providing the consumer with a sample copy of the terms and
457 conditions of the service agreement or by directing the consumer
458 to a website that displays a complete sample of the terms and
459 conditions of the service agreement.

460 842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

461 No provision of this section shall be deemed to prohibit a
462 service agreement company or a licensed insurer from giving to
463 service agreement holders, prospective service agreement
464 holders, and others for the purpose of advertising, any article
465 of merchandise having a value of not more than \$25.

466 Section 15. Effective upon this act becoming a law,
467 section 634.301, Florida Statutes, as amended by section 1 of
468 chapter 2007-235, Laws of Florida, is amended to read:

469 634.301 Definitions.—As used in this part, the term:

470 (1) "Gross written premiums" means the total amount of
471 premiums, paid for the entire period of the home warranty,
472 inclusive of commissions, for which the association is obligated
473 under home warranties issued.

474 ~~(2) "Home improvement" means major remodeling, enclosure~~
475 ~~of a garage, addition of a room, addition of a pool, and other~~
476 ~~like items that add value to the residential property. The term~~
477 ~~does not include normal maintenance for items such as painting,~~
478 ~~reroofing, and other like items subject to normal wear and tear.~~

479 (2)(3) "Home warranty" or "warranty" means any contract or
480 agreement:

481 ~~(a) Offered in connection with the sale of residential~~
482 ~~property;~~

483 ~~(b) Offered in connection with a loan of \$5,000 or more~~
484 ~~which is secured by residential property that is the subject of~~
485 ~~the warranty, but not in connection with the sale of such~~
486 ~~property;~~

487 ~~(c) Offered in connection with a home improvement of~~
488 ~~\$7,500 or more for residential property that is the subject of~~
842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

489 ~~the warranty, but not in connection with the sale of such~~
490 ~~property; or~~

491 ~~(d) Offered in connection with a home inspection service~~
492 ~~as defined under s. 468.8311(4) or a mold assessment as defined~~
493 ~~under s. 468.8411(3);~~

494

495 whereby a person undertakes to indemnify the warranty holder
496 against the cost of repair or replacement, or actually furnishes
497 repair or replacement, of any structural component or appliance
498 of a home, necessitated by wear and tear or an inherent defect
499 of any such structural component or appliance or necessitated by
500 the failure of an inspection to detect the likelihood of any
501 such loss. However, this part does not prohibit the giving of
502 usual performance guarantees by either the builder of a home or
503 the manufacturer or seller of an appliance, as long as no
504 identifiable charge is made for such guarantee. This part does
505 not permit the provision of indemnification against
506 consequential damages arising from the failure of any structural
507 component or appliance of a home, which practice constitutes the
508 transaction of insurance subject to all requirements of the
509 insurance code. This part does not apply to service contracts
510 entered into between consumers and nonprofit organizations or
511 cooperatives the members of which consist of condominium
512 associations and condominium owners and which perform repairs
513 and maintenance for appliances or maintenance of the residential
514 property. This part does not apply to a contract or agreement
515 ~~offered in connection with a sale of residential property by a~~
516 warranty association in compliance with part III, provided such
842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

517 contract or agreement only relates to the systems and appliances
518 of the covered residential property and does not cover any
519 structural component of the residential property.

520 ~~(3)~~~~(4)~~ "Home warranty association" means any corporation
521 or any other organization, other than an authorized insurer,
522 issuing home warranties.

523 ~~(4)~~~~(5)~~ "Impaired" means having liabilities in excess of
524 assets.

525 ~~(5)~~~~(6)~~ "Insolvent" means the inability of a corporation to
526 pay its debts as they become due in the usual course of its
527 business.

528 ~~(6)~~~~(7)~~ "Insurance code" means the Florida Insurance Code.

529 ~~(7)~~~~(8)~~ "Insurer" means any property or casualty insurer
530 duly authorized to transact such business in this state.

531 ~~(8)~~~~(9)~~ "Listing period" means the period of time
532 residential property is listed for sale with a licensed real
533 estate broker, beginning on the date the residence is first
534 listed for sale and ending on either the date the sale of the
535 residence is closed, the date the residence is taken off the
536 market, or the date the listing contract with the real estate
537 broker expires.

538 ~~(9)~~~~(10)~~ "Net assets" means the amount by which the total
539 statutory assets of an association exceed the total liabilities
540 of the association.

541 ~~(10)~~~~(11)~~ "Person" includes an individual, company,
542 corporation, association, insurer, agent, and every other legal
543 entity.

842183

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Amendment No.

544 ~~(11)-(12)~~ "Premium" means the total consideration received,
545 or to be received, by an insurer or home warranty association
546 for or related to the issuance and delivery of any binder or
547 warranty, including any charges designated as assessments or
548 fees for policies, surveys, inspections, or service or any other
549 charges.

550 ~~(12)-(13)~~ "Sales representative" means any person with whom
551 an insurer or home inspection or warranty association has a
552 contract and who is utilized by such insurer or association for
553 the purpose of selling or issuing home warranties. The term
554 includes all employees of an insurer or association engaged
555 directly in the sale or issuance of home warranties.

556 ~~(13)-(14)~~ "Structural component" means the roof, plumbing
557 system, electrical system, foundation, basement, walls,
558 ceilings, or floors of a home.

559 Section 16. Effective upon this act becoming a law,
560 subsection (4) is added to section 634.303, Florida Statutes, to
561 read:

562 634.303 License required.—

563 (4) Any person who provides, offers to provide, or holds
564 oneself out as providing or offering to provide home warranties
565 in this state or from this state without holding a subsisting
566 license commits, in addition to any other violation, a
567 misdemeanor of the first degree, punishable as provided in s.
568 775.082 or s. 775.083.

569 Section 17. Effective upon this act becoming a law,
570 paragraph (f) of subsection (2) of section 634.308, Florida
571 Statutes, is amended to read:

842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

572 634.308 Grounds for suspension or revocation of license.-

573 (2) The license of any home warranty association shall be
574 suspended, revoked, or not renewed if it is determined that such
575 association:

576 (f) Has issued warranty contracts which renewal contracts
577 provide that the cost of renewal exceeds the then-current cost
578 for new warranty contracts, unless the increase is supported by
579 the claims history or claims cost data, or impose a fee for
580 inspection of the premises.

581 Section 18. Effective upon this act becoming a law,
582 section 634.312, Florida Statutes, is amended to read:

583 634.312 Forms; required provisions and procedures Filing,
584 approval of forms.-

585 ~~(1) No warranty form or related form shall be issued or~~
586 ~~used in this state unless it has been filed with and approved by~~
587 ~~the office. Also upon application for a license, the office~~
588 ~~shall require the applicant to submit for approval each~~
589 ~~brochure, pamphlet, circular, form letter, advertisement, or~~
590 ~~other sales literature or advertising communication addressed or~~
591 ~~intended for distribution. Approval of the application~~
592 ~~constitutes approval of such documents, unless the applicant has~~
593 ~~consented otherwise in writing. The office shall disapprove any~~
594 ~~document which is untrue, deceptive, or misleading or which~~
595 ~~contains misrepresentations or omissions of material facts.~~

596 ~~(a) After an application has been approved, a licensee is~~
597 ~~not required to submit brochures or advertisement to the office~~
598 ~~for approval; however, a licensee may not have published, and a~~
599 ~~person may not publish, any brochure or advertisement which is~~

842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

600 ~~untrue, deceptive, or misleading or which contains~~
601 ~~misrepresentations or omissions of material fact.~~

602 ~~(b) For purposes of this section, brochures and~~
603 ~~advertising includes, but is not limited to, any report,~~
604 ~~ircular, public announcement, certificate, or other printed~~
605 ~~matter or advertising material which is designed or used to~~
606 ~~solicit or induce any persons to enter into any home warranty~~
607 ~~agreement.~~

608 ~~(2) Every such filing shall be made not less than 30 days~~
609 ~~in advance of issuance or use. At the expiration of 30 days from~~
610 ~~date of filing, a form so filed shall be deemed approved unless~~
611 ~~prior thereto it has been affirmatively approved or disapproved~~
612 ~~by written order of the office.~~

613 ~~(3) The office shall not approve any such form that~~
614 ~~imposes a fee for inspection of the premises.~~

615 (1)~~(4)~~ All home warranty contracts are assignable in a
616 consumer transaction and must contain a statement informing the
617 purchaser of the home warranty of her or his right to assign it,
618 at least within 15 days from the date the home is sold or
619 transferred, to a subsequent retail purchaser of the home
620 covered by the home warranty and all conditions on such right of
621 transfer. The home warranty company may charge an assignment fee
622 not to exceed \$40. Home warranty assignments include, but are
623 not limited to, the assignment from a home builder who purchased
624 the home warranty to a subsequent home purchaser.

625 (2)~~(5)~~ Subject to the insurer's or home warranty
626 association's requirement as to payment of premium, every home
627 warranty shall be mailed or delivered to the warranty holder not

842183

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Amendment No.

628 later than 45 days after the effectuation of coverage, and the
629 application is part of the warranty contract document.

630 ~~(3)-(6)~~ All home warranty contracts must state in
631 conspicuous, boldfaced type that the home warranty may not
632 provide listing period coverage free of charge.

633 ~~(4)-(7)~~ All home warranty contracts must disclose any
634 exclusions, restrictions, or limitations on the benefits offered
635 or the coverage provided by the home warranty contract in
636 boldfaced type, and must contain, in boldfaced type, a statement
637 on the front page of the contract substantially similar to the
638 following: "Certain items and events are not covered by this
639 contract. Please refer to the exclusions listed on page _____ of
640 this document."

641 ~~(5)-(8)~~ Each home warranty contract shall contain a
642 cancellation provision. Any home warranty agreement may be
643 canceled by the purchaser within 10 days after purchase. The
644 refund must be 100 percent of the gross premium paid, less any
645 claims paid on the agreement. A reasonable administrative fee
646 may be charged, not to exceed 5 percent of the gross premium
647 paid by the warranty agreement holder. After the home warranty
648 agreement has been in effect for 10 days, if the contract is
649 canceled by the warranty holder, a return of premium shall be
650 based upon 90 percent of unearned pro rata premium less any
651 claims that have been paid. If the contract is canceled by the
652 association for any reason other than for fraud or
653 misrepresentation, a return of premium shall be based upon 100
654 percent of unearned pro rata premium, less any claims paid on
655 the agreement.

842183

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Amendment No.

656 (6) By July 1, 2011, each home warranty contract sold in
657 this state must be accompanied by a written disclosure to the
658 consumer that the rate charged for the contract is not subject
659 to regulation by the office. A home warranty association may
660 comply with this requirement by including such disclosure in its
661 home warranty contract form or in a separate written notice
662 provided to the consumer at the time of sale.

663 Section 19. Effective upon this act becoming a law,
664 section 634.3123, Florida Statutes, is amended to read:

665 634.3123 Noncompliant Grounds for disapproval of forms.-
666 The office may order a home warranty association to stop using
667 any contract shall disapprove any form that filed under s.
668 634.312 or withdraw any previous approval if the form:

669 (1) Is in violation of or does not comply with this part.

670 (2) Contains or incorporates by reference, when such
671 incorporation is otherwise permissible, any inconsistent,
672 ambiguous, or misleading clauses or exceptions or conditions
673 which deceptively affect the risk purported to be assumed in the
674 general coverage of the contract.

675 (3) Has any title, heading, or other indication of its
676 provisions which is misleading.

677 (4) Is printed or otherwise reproduced in such a manner as
678 to render any material provision of the form illegible.

679 (5) Provides that the cost of renewal exceeds the then-
680 current cost for new warranty contracts, unless the increase is
681 supported by the claims history or claims cost data, or impose a
682 fee for inspection of the premises.

842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

683 Section 20. Effective upon this act becoming a law,
684 section 634.314, Florida Statutes, is amended to read:

685 634.314 Examination of associations.—

686 (1) Home warranty associations licensed under this part
687 may ~~shall~~ be subject to periodic examinations by the office, in
688 the same manner and subject to the same terms and conditions as
689 apply to insurers under part II of chapter 624 of the insurance
690 code.

691 (2) The office shall determine whether to conduct an
692 examination of a home warranty association by considering:

693 (a) The amount of time that the association has been
694 continuously licensed and operating under the same management
695 and control.

696 (b) The association's history of compliance with
697 applicable law.

698 (c) The number of consumer complaints against the
699 association.

700 (d) The financial condition of the association,
701 demonstrated by the financial reports submitted pursuant to s.
702 634.313.

703 Section 21. Effective upon this act becoming a law,
704 paragraph (b) of subsection (1) of section 634.3205, Florida
705 Statutes, is amended to read:

706 634.3205 Rebating; when allowed.—

707 (1) No sales representative shall rebate any portion of
708 his or her commission except as follows:

709 (b) The rebate shall be in accordance with a rebating
710 schedule filed with and approved by the ~~sales representative~~
842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

711 ~~with the~~ home warranty association issuing the home warranty to
712 which the rebate applies. The home warranty association shall
713 maintain a copy of all rebating schedules for a period of 3
714 years.

715 Section 22. Effective upon this act becoming a law,
716 subsection (8) of section 634.336, Florida Statutes, is amended,
717 and subsection (9) is added to that section, to read:

718 634.336 Unfair methods of competition and unfair or
719 deceptive acts or practices defined.—The following methods,
720 acts, or practices are defined as unfair methods of competition
721 and unfair or deceptive acts or practices:

722 (8) COERCION OF DEBTORS.—When a home warranty is sold ~~as~~
723 ~~authorized by s. 634.301(3)(b):~~

724 (a) Requiring, as a condition precedent or condition
725 subsequent to the lending of the money or the extension of the
726 credit or any renewal thereof, that the person to whom such
727 credit is extended purchase a home warranty; or

728 (b) Failing to provide the advice required by s. 634.344.

729 (9) FAILURE TO PROVIDE TERMS AND CONDITIONS PRIOR TO
730 SALE.—Failing to provide a consumer with a complete sample copy
731 of the terms and conditions of the home warranty contract prior
732 to the time of sale upon a request for the same by the consumer.
733 A home warranty association may comply with this subsection by
734 providing the consumer with a sample copy of the terms and
735 conditions of the home warranty contract or by directing the
736 consumer to a website that displays a complete sample of the
737 terms and conditions of the contract.

842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

738 Section 23. Effective upon this act becoming a law,
739 section 634.344, Florida Statutes, is amended to read:

740 634.344 Coercion of debtor prohibited.—

741 (1) When a home warranty is sold in connection with the
742 lending of money as authorized by s. 634.301(3)(b), a no person
743 may not require, as a condition precedent or condition
744 subsequent to the lending of the money or the extension of the
745 credit or any renewal thereof, that the person to whom such
746 money or credit is extended purchase a home warranty.

747 (2) When a home warranty is purchased in connection with
748 the lending of money ~~as authorized by s. 634.301(3)(b)~~, the
749 insurer or home warranty association or the sales representative
750 of the insurer or home warranty association shall advise the
751 borrower or purchaser in writing that Florida law prohibits the
752 lender from requiring the purchase of a home warranty as a
753 condition precedent or condition subsequent to the making of the
754 loan.

755 Section 24. Effective upon this act becoming a law,
756 subsection (5) of section 634.401, Florida Statutes, is amended
757 to read:

758 634.401 Definitions.—As used in this part, the term:

759 (5) "Indemnify" means to undertake repair or replacement
760 of a consumer product, or pay compensation for such repair or
761 replacement by cash, check, store credit, gift card, or other
762 similar means, in return for the payment of a segregated
763 premium, when such consumer product suffers operational failure.

842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

764 Section 25. Effective upon this act becoming a law,
765 subsection (5) is added to section 634.403, Florida Statutes, to
766 read:

767 634.403 License required.—

768 (5) Any person who provides, offers to provide, or holds
769 oneself out as providing or offering to provide a service
770 warranty in this state or from this state without holding a
771 subsisting license commits, in addition to any other violation,
772 a misdemeanor of the first degree, punishable as provided in s.
773 775.082 or s. 775.083.

774 Section 26. Effective upon this act becoming a law,
775 paragraph (e) of subsection (3) of section 634.406, Florida
776 Statutes, is amended to read:

777 634.406 Financial requirements.—

778 (3) An association will not be required to establish an
779 unearned premium reserve if it has purchased contractual
780 liability insurance which demonstrates to the satisfaction of
781 the office that 100 percent of its claim exposure is covered by
782 such policy. The contractual liability insurance shall be
783 obtained from an insurer that holds a certificate of authority
784 to do business within the state. For the purposes of this
785 subsection, the contractual liability policy shall contain the
786 following provisions:

787 (e) In the event the issuer of the contractual liability
788 policy is fulfilling the service warranty covered by policy and
789 in the event the service warranty holder cancels the service
790 warranty, it is the responsibility of the contractual liability
791 policy issuer to effectuate a full refund of unearned premium to
842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

792 the consumer. This refund shall be subject to the cancellation
793 fee provisions of s. 634.414(3). The salesperson or agent shall
794 refund to the contractual liability policy issuer the unearned
795 pro rata commission.

796 Section 27. Effective upon this act becoming a law,
797 section 634.414, Florida Statutes, is amended to read:

798 634.414 Forms; required provisions ~~Filing; approval of~~
799 ~~forms.-~~

800 ~~(1) No service warranty form or related form shall be~~
801 ~~issued or used in this state unless it has been filed with and~~
802 ~~approved by the office. Upon application for a license, the~~
803 ~~office shall require the applicant to submit for approval each~~
804 ~~brochure, pamphlet, circular, form letter, advertisement, or~~
805 ~~other sales literature or advertising communication addressed or~~
806 ~~intended for distribution. The office shall disapprove any~~
807 ~~document which is untrue, deceptive, or misleading or which~~
808 ~~contains misrepresentations or omissions of material facts.~~

809 ~~(a) After an application has been approved, a licensee is~~
810 ~~not required to submit brochures or advertisement to the office~~
811 ~~for approval; however, a licensee may not have published, and a~~
812 ~~person may not publish, any brochure or advertisement which is~~
813 ~~untrue, deceptive, or misleading or which contains~~
814 ~~misrepresentations or omissions of material fact.~~

815 ~~(b) For purposes of this section, brochures and~~
816 ~~advertising includes, but is not limited to, any report,~~
817 ~~circular, public announcement, certificate, or other printed~~
818 ~~matter or advertising material which is designed or used to~~

842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

819 ~~solicit or induce any persons to enter into any service warranty~~
820 ~~agreement.~~

821 ~~(2) Each filing shall be made not less than 30 days in~~
822 ~~advance of its issuance or use. At the expiration of 30 days~~
823 ~~from date of filing, a form so filed shall be deemed approved~~
824 ~~unless prior thereto it has been affirmatively disapproved by~~
825 ~~written order of the office.~~

826 ~~(1)-(3)~~ Each service warranty contract shall contain a
827 cancellation provision. If In the event the contract is canceled
828 by the warranty holder, return of premium shall be based upon no
829 less than 90 percent of unearned pro rata premium less any
830 claims that have been paid or less the cost of repairs made on
831 behalf of the warranty holder. If In the event the contract is
832 canceled by the association, return of premium shall be based
833 upon 100 percent of unearned pro rata premium, less any claims
834 paid or the cost of repairs made on behalf of the warranty
835 holder.

836 (2) By July 1, 2011, each service warranty contract sold
837 in this state must be accompanied by a written disclosure to the
838 consumer that the rate charged for the contract is not subject
839 to regulation by the office. A service warranty association may
840 comply with this requirement by including such disclosure in its
841 service warranty contract form or in a separate written notice
842 provided to the consumer at the time of sale.

843 ~~(4) The name of the service warranty association issuing~~
844 ~~the contract must be more prominent than any other company name~~
845 ~~or program name on the service warranty form or sales brochure.~~

842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

846 Section 28. Effective upon this act becoming a law,
847 section 634.4145, Florida Statutes, is amended to read:

848 634.4145 Noncompliant Grounds for disapproval of forms.-
849 The office may order a service warranty association to stop
850 using any contract shall disapprove any form that filed under s.
851 634.414 if the form:

- 852 (1) Violates this part;
853 (2) Is misleading in any respect;
854 (3) Is reproduced so that any material provision is
855 substantially illegible; or
856 (4) Contains provisions which are unfair or inequitable or
857 which encourage misrepresentation.

858 Section 29. Effective upon this act becoming a law,
859 section 634.415, Florida Statutes, is amended to read:

860 634.415 Tax on premiums; annual statement; reports ~~+~~
861 ~~quarterly statements.~~-

- 862 (1) In addition to the license fees provided in this part
863 for service warranty associations and license taxes as provided
864 in the insurance code as to insurers, each such association and
865 insurer shall, annually on or before March 1, file with the
866 office its annual statement, in the form prescribed by the
867 commission, showing all premiums or assessments received by it
868 in connection with the issuance of service warranties in this
869 state during the preceding calendar year and using accounting
870 principles which will enable the office to ascertain whether the
871 financial requirements set forth in s. 634.406 have been
872 satisfied.

842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

873 (2) The gross amount of premiums and assessments is
874 subject to the sales tax imposed by s. 212.0506.

875 (3) The office may levy a fine of up to \$100 a day for
876 each day an association neglects to file the annual statement in
877 the form and within the time provided by this part. The amount
878 of the fine shall be established by rules adopted by the
879 commission. The office shall deposit all sums collected by it
880 under this section to the credit of the Insurance Regulatory
881 Trust Fund.

882 ~~(4) In addition to an annual statement, the office may~~
883 ~~require of licensees, under oath and in the form prescribed by~~
884 ~~it, quarterly statements or special reports which it deems~~
885 ~~necessary to the proper supervision of licensees under this~~
886 ~~part. For manufacturers as defined in s. 634.401, the office~~
887 ~~shall require only the annual audited financial statements of~~
888 ~~the warranty operations and corporate reports as filed by the~~
889 ~~manufacturer with the Securities and Exchange Commission,~~
890 ~~provided that the office may require additional reporting by~~
891 ~~manufacturers upon a showing by the office that annual reporting~~
892 ~~is insufficient to protect the interest of purchasers of service~~
893 ~~warranty agreements in this state or fails to provide sufficient~~
894 ~~proof of the financial status required by this part.~~

895 (4)~~(5)~~ The office may suspend or revoke the license of a
896 service warranty association failing to file its annual
897 statement ~~or quarterly report~~ when due.

898 (5)~~(6)~~ The commission may by rule require each service
899 warranty association to submit to the office, as the commission
900 may designate, all or part of the information contained in the
842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

901 financial statements and reports required by this section in a
902 computer-readable form compatible with the electronic data
903 processing system specified by the office.

904 Section 30. Effective upon this act becoming a law,
905 section 634.416, Florida Statutes, is amended to read:

906 634.416 Examination of associations.—

907 (1) (a) Service warranty associations licensed under this
908 part may be ~~are~~ subject to periodic examination by the office,
909 in the same manner and subject to the same terms and conditions
910 that apply to insurers under part II of chapter 624.

911 (b) The office shall determine whether to conduct an
912 examination of a service warranty association by considering:

913 1. The amount of time that the association has been
914 continuously licensed and operating under the same management
915 and control.

916 2. The association's history of compliance with applicable
917 law.

918 3. The number of consumer complaints against the
919 association.

920 4. The financial condition of the association,
921 demonstrated by the financial reports submitted pursuant to s.
922 634.313.

923 (2) However, The rate charged a service warranty
924 association by the office for examination may be adjusted to
925 reflect the amount collected for the Form 10-K filing fee as
926 provided in this section.

927 (3) On or before May 1 of each year, an association may
928 submit to the office the Form 10-K, as filed with the United
842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

929 States Securities and Exchange Commission pursuant to the
930 Securities Exchange Act of 1934, as amended. Upon receipt and
931 review of the most current Form 10-K, the office may waive the
932 examination requirement; if the office determines not to waive
933 the examination, such examination will be limited to that
934 examination necessary to ensure compliance with this part. The
935 Form 10-K shall be accompanied by a filing fee of \$2,000 to be
936 deposited into the Insurance Regulatory Trust Fund.

937 ~~(4)(2)~~ The office is not required to examine an
938 association that has less than \$20,000 in gross written premiums
939 as reflected in its most recent annual statement. The office may
940 examine such an association if it has reason to believe that the
941 association may be in violation of this part or is otherwise in
942 an unsound financial condition. If the office examines an
943 association that has less than \$20,000 in gross written
944 premiums, the examination fee may not exceed 5 percent of the
945 gross written premiums of the association.

946 Section 31. Effective upon this act becoming a law,
947 paragraph (b) of subsection (1) of section 634.4225, Florida
948 Statutes, is amended to read:

949 634.4225 Rebating; when allowed.—

950 (1) No sales representative shall rebate any portion of
951 his or her commission except as follows:

952 (b) The rebate shall be in accordance with a rebating
953 schedule filed with and approved by the ~~sales representative~~
954 ~~with the~~ association issuing the service warranty to which the
955 rebate applies. The association shall maintain a copy of all
956 rebating schedules for a period of 3 years.

842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

957 Section 32. Effective upon this act becoming a law,
958 subsection (9) is added to section 634.436, Florida Statutes, to
959 read:

960 634.436 Unfair methods of competition and unfair or
961 deceptive acts or practices defined.—The following methods,
962 acts, or practices are defined as unfair methods of competition
963 and unfair or deceptive acts or practices:

964 (9) FAILURE TO PROVIDE TERMS AND CONDITIONS PRIOR TO
965 SALE.—Failing to provide a consumer with a complete sample copy
966 of the terms and conditions of the service warranty prior to
967 before the time of sale upon a request for the same by the
968 consumer. A service warranty association may comply with this
969 subsection by providing the consumer with a sample copy of the
970 terms and conditions of the warranty contract or by directing
971 the consumer to a website that displays a complete sample of the
972 terms and conditions of the contract.

973 Section 33. Effective upon this act becoming a law,
974 subsections (2), (3), (4), and (5) of section 634.136, Florida
975 Statutes, are amended to read:

976 634.136 Office records required.—Each licensed motor
977 vehicle service contract company, as a minimum requirement for
978 permanent office records, shall maintain:

979 ~~(2) Memorandum journals showing the blank service~~
980 ~~agreement forms issued to the company salespersons and recording~~
981 ~~the delivery of the forms to the dealer.~~

982 ~~(3) Memorandum journals showing the service contract forms~~
983 ~~received by the motor vehicle dealers and indicating the~~
984 ~~disposition of the forms by the dealer.~~

842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

985 (2)~~(4)~~ A detailed service agreement register, in numerical
986 order by service agreement number, of agreements in force, which
987 register shall include the following information: service
988 agreement number, date of issue, issuing dealer, name of
989 agreement holder, whether the agreement is covered by
990 contractual liability insurance or the unearned premium reserve
991 account, description of motor vehicle, service agreement period
992 and mileage, gross premium, commission to salespersons,
993 commission to dealer, and net premium.

994 (3)~~(5)~~ A detailed claims register, in numerical order by
995 service agreement number, which register shall include the
996 following information: service agreement number, date of issue,
997 date of claim, type of claim, issuing dealer, amount of claim,
998 date claim paid, and, if applicable, disposition other than
999 payment and reason therefor.

1000 Section 34. Effective upon this act becoming a law,
1001 subsections (4) and (5) of section 634.313, Florida Statutes,
1002 are amended to read:

1003 634.313 Tax on premiums; annual statement; reports.-

1004 ~~(4) In addition to an annual statement, the office may~~
1005 ~~require of licensees, under oath and in the form prescribed by~~
1006 ~~it, such additional regular or special reports as it may deem~~
1007 ~~necessary to the proper supervision of licensees under this~~
1008 ~~part.~~

1009 (4)~~(5)~~ The commission may by rule require each home
1010 warranty association to submit to the office, as the commission
1011 may designate, all or part of the information contained in the
1012 financial reports required by this section in a computer-

842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

1013 readable form compatible with the electronic data processing
1014 system specified by the office.

1015 Section 35. Effective upon this act becoming a law,
1016 sections 634.1216 and 634.3126, Florida Statutes, are repealed.

1017 Section 36. Except as otherwise expressly provided in this
1018 act and except for this section, which shall take effect upon
1019 becoming a law, this act shall take effect January 1, 2011.

1020
1021 -----

T I T L E A M E N D M E N T

1022 Remove lines 64-65 and insert:
1023 information at the insurer's expense; amending s.
1024 628.4615, F.S., relating to specialty insurers; conforming
1025 a cross-reference; amending s. 634.011, F.S.; revising the
1026 definition of the term "motor vehicle service agreement";
1027 amending s. 634.031, F.S.; providing penalties for certain
1028 licensure violations; amending s. 634.041, F.S., relating
1029 to qualifications for licensure; conforming cross-
1030 references; amending s. 634.095, F.S.; prohibiting service
1031 agreement companies from issuing certain deceptive
1032 advertisements, operating without a subsisting license, or
1033 remitting premiums to a person other than the obligated
1034 service agreement company; amending s. 634.121, F.S.;
1035 deleting a requirement that certain service agreement
1036 forms be approved by the Office of Insurance Regulation of
1037 the Financial Services Commission; requiring the service
1038 agreements to include certain written disclosures;
1039 amending s. 634.1213, F.S.; authorizing the office to
1040

842183

Approved For Filing: 4/28/2010 6:27:12 AM

Amendment No.

1041 order a service agreement company to stop using forms that
1042 do not comply with specified requirements; amending s.
1043 634.137, F.S.; deleting a schedule for the submissions of
1044 certain reports; amending s. 634.141, F.S.; providing
1045 guidelines for the office to use in determining whether to
1046 examine a company; amending s. 634.1815, F.S.; requiring
1047 certain rebates to be approved by the company issuing a
1048 service agreement; amending s. 634.282, F.S.; clarifying
1049 provisions relating to the refund of excess premiums or
1050 charges; requiring that a consumer receive a sample copy
1051 of the service agreement prior to the sale of a service
1052 agreement; amending s. 634.301, F.S.; revising certain
1053 definitions relating home warranties; amending s. 634.303,
1054 F.S.; providing that it is a first-degree misdemeanor for
1055 a person without a subsisting license to provide or offer
1056 to provide home warranties; amending s. 634.308, F.S.;
1057 providing an exception to certain grounds for licensure
1058 suspension or revocation; amending s. 634.312, F.S.;
1059 deleting a requirement that certain home warranty
1060 agreement forms be approved by the office; requiring the
1061 home warranty contracts to include certain written
1062 disclosures; amending s. 634.3123, F.S.; authorizing the
1063 office to order a home warranty association to stop using
1064 forms that do not comply with specified requirements;
1065 amending s. 634.314, F.S.; providing guidelines for the
1066 office to use in determining whether to examine an
1067 association; amending s. 634.3205, F.S.; requiring certain
1068 rebates to be approved by the association issuing a

842183

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Amendment No.

1069 service agreement; amending s. 634.336, F.S.; requiring
1070 that a consumer receive a sample copy of the service
1071 agreement prior to the sale of a service agreement;
1072 amending s. 634.344, F.S.; prohibiting certain coercive
1073 actions relating to the sale of a home warranty in
1074 connection with the lending of money; amending s. 634.401,
1075 F.S.; redefining the term "indemnify"; amending s.
1076 634.403, F.S.; providing that it is a first-degree
1077 misdemeanor for a person without a subsisting license to
1078 provide or offer to provide service warranties; amending
1079 s. 634.406, F.S., relating to financial requirements;
1080 conforming a cross-reference; amending s. 634.414, F.S.;
1081 deleting a requirement that certain service warranty forms
1082 be approved by the office; deleting certain requirements
1083 relating to the display of the issuing association's name
1084 on literature; requiring the service warranty contracts to
1085 include certain written disclosures; amending s. 634.4145,
1086 F.S.; authorizing the office to order a service warranty
1087 association to stop using forms that do not comply with
1088 specified requirements; amending s. 634.415, F.S.;
1089 deleting a requirement that associations file certain
1090 quarterly statements and special reports; amending s.
1091 634.416, F.S.; providing guidelines for the office to use
1092 in determining whether to examine an service warranty
1093 association; amending s. 634.4225, F.S.; requiring certain
1094 rebates to be approved by the association issuing a
1095 service warranty; amending s. 634.436, F.S.; requiring
1096 that a consumer receive a sample copy of the service

842183

Approved For Filing: 4/28/2010 6:27:12 AM

Page 40 of 41

Amendment No.

1097 agreement prior to the sale of a service agreement;
1098 amending s. 634.136, F.S.; deleting certain provisions
1099 requiring records to be maintained by motor vehicle
1100 service contract companies; amending s. 634.313, F.S.;
1101 deleting certain requirements for reports relating to
1102 taxes on premiums; repealing ss. 634.1216 and 634.3126,
1103 F.S., relating to required rate filings; providing
1104 effective dates.