



790218

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
02/27/2024	.	
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The Committee on Rules (Burgess) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (s) is added to subsection (1) of
section 489.129, Florida Statutes, to read:

489.129 Disciplinary proceedings.—

(1) The board may take any of the following actions against
any certificateholder or registrant: place on probation or
reprimand the licensee, revoke, suspend, or deny the issuance or
renewal of the certificate or registration, require financial



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12 restitution to a consumer for financial harm directly related to
13 a violation of a provision of this part, impose an
14 administrative fine not to exceed \$10,000 per violation, require
15 continuing education, or assess costs associated with
16 investigation and prosecution, if the contractor, financially
17 responsible officer, or business organization for which the
18 contractor is a primary qualifying agent, a financially
19 responsible officer, or a secondary qualifying agent responsible
20 under s. 489.1195 is found guilty of any of the following acts:

21 (s) Violating any provision of s. 489.150.

22
23 For the purposes of this subsection, construction is considered
24 to be commenced when the contract is executed and the contractor
25 has accepted funds from the customer or lender. A contractor
26 does not commit a violation of this subsection when the
27 contractor relies on a building code interpretation rendered by
28 a building official or person authorized by s. 553.80 to enforce
29 the building code, absent a finding of fraud or deceit in the
30 practice of contracting, or gross negligence, repeated
31 negligence, or negligence resulting in a significant danger to
32 life or property on the part of the building official, in a
33 proceeding under chapter 120.

34 Section 2. Section 489.150, Florida Statutes, is created to
35 read:

36 489.150 Automatic transfer of express written warranties.-

37 (1) As used in this section, the term:

38 (a) "Builder" means the primary general contractor,
39 building contractor, residential contractor, or roofing
40 contractor of a home who has the responsibility to supervise,



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41 direct, manage, and control the contracting activities of the
42 business organization with which he or she is connected and who
43 has the responsibility to supervise, direct, manage, and control
44 the construction work on a job for which he or she has obtained
45 a building permit. Construction work includes, but is not
46 limited to, construction of structural components.

47 (b) "Express written warranty" means any contract or
48 agreement whereby a builder undertakes to indemnify the warranty
49 holder against the cost of repair or replacement, or actually
50 furnishes repair or replacement, of any structural component or
51 appliance of a home, necessitated by wear and tear or an
52 inherent defect of any such structural component or appliance or
53 necessitated by the failure of an inspection to detect the
54 likelihood of any such loss.

55 (c) "Home" means any residential real property, or
56 manufactured or modular home, which is a single-family dwelling,
57 duplex, triplex, or quadruplex.

58 (d) "Indemnify" means to undertake repair or replacement of
59 a home's structural component, or pay compensation for such
60 repair or replacement by cash, check, or other similar means,
61 including, but not limited to, electronic means.

62 (e) "Structural component" means one or more essential
63 elements of a home, including the roof, foundation, basement,
64 exterior or interior walls, electrical and plumbing systems,
65 ceilings, or floors. The term includes any item covered in the
66 terms of an express written warranty.

67 (2) Except as provided in this section, if a builder is
68 obligated under and provides a home purchaser an express written
69 warranty on or after January 1, 2025, which indemnifies a home



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70 purchaser against the cost of repairing any of the structural
71 components or any spray foam of a home and if such warranty has
72 not become null and void or lawfully terminated under the terms
73 of the express written warranty, the express written warranty
74 and all indemnification rights, terms, and conditions thereunder
75 shall automatically transfer to any subsequent purchaser of the
76 home for the duration of the express written warranty. However,
77 the express written warranty may not contain a term that
78 terminates the warranty based on the subsequent purchase alone.

79 (3) (a) An express written warranty provided on or after
80 January 1, 2025, which is conditioned on the continuation of a
81 home maintenance contract shall automatically transfer to a
82 subsequent purchaser pursuant to subsection (2) unless the
83 subsequent purchaser declines the assignment of the underlying
84 home maintenance contract. If a subsequent purchaser accepts the
85 assignment of the home maintenance contract, the subsequent
86 purchaser is obligated to comply with the terms and conditions
87 of the home maintenance contract, including, but not limited to,
88 any requirement to pay consideration. A builder must provide
89 notice of any amounts due under the home maintenance contract to
90 a subsequent purchaser at the home address covered by such
91 contract unless the subsequent purchaser notifies the builder of
92 a preferred method of notification.

93 (b) A home maintenance contract that is a separate
94 agreement and is not conditioned on an express written warranty
95 shall transfer to a subsequent purchaser only to the extent that
96 the builder and subsequent purchaser agree to the assignment of
97 the contract.

98 (4) A subsequent purchaser who receives the benefit of a



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99 warranty being automatically transferred to him or her for the
100 duration of the express written warranty pursuant to this
101 section must notify the builder that he or she has purchased the
102 home and therefore is the warrantee under the express written
103 warranty. Such notice may be given at any time while the
104 warranty remains in effect. A builder may not require in the
105 terms of a warranty a shorter notice period than provided for in
106 this subsection.

107 (5) A builder may not charge a fee for the transfer of a
108 warranty which occurs automatically pursuant to this section.

109 (6) This section does not:

110 (a) Create a warranty, create any new indemnification
111 rights or obligations, modify or extend the commencement date or
112 the duration, or expand the scope of coverage, of the express
113 written warranty beyond the express written warranty's terms.

114 (b) Require a builder to be obligated under an express
115 written warranty that has become null and void pursuant to the
116 terms of the warranty.

117 (c) Require a builder to indemnify a home purchaser or
118 subsequent purchaser for any structural component, other
119 component, item, or product of a home covered under the terms of
120 an express written warranty which is substantially damaged or
121 substantially modified by the home purchaser or a subsequent
122 purchaser.

123 (d) Require a builder who is obligated under and provides a
124 home purchaser or subsequent purchaser an express written
125 warranty to obtain a license under the Florida Insurance Code,
126 and such practice does not constitute the transaction of
127 insurance subject to the requirements of the code, unless



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128 otherwise required by law.

129 (e) Require any subsequent purchaser to be bound by the
130 terms of a home maintenance contract unless he or she agrees to
131 the home maintenance contract being assigned to him or her.

132 (f) Require a builder to compensate or reimburse a
133 subsequent purchaser for the cost that a subsequent purchaser
134 may incur for repairing a structural component of a home unless
135 the express written warranty so provides or unless otherwise
136 provided by law.

137 Section 3. Section 634.301, Florida Statutes, is amended to
138 read:

139 634.301 Definitions.—Except as provided in s. 634.350, as
140 used in this part, the term:

141 (1) "Gross written premiums" means the total amount of
142 premiums, paid for the entire period of the home warranty,
143 inclusive of commissions, for which the association is obligated
144 under home warranties issued.

145 (2) "Home warranty" or "warranty" means any contract or
146 agreement whereby a person undertakes to indemnify the warranty
147 holder against the cost of repair or replacement, or actually
148 furnishes repair or replacement, of any structural component or
149 appliance of a home, necessitated by wear and tear or an
150 inherent defect of any such structural component or appliance or
151 necessitated by the failure of an inspection to detect the
152 likelihood of any such loss. However, this part does not
153 prohibit the giving of usual performance guarantees by either
154 the builder of a home or the manufacturer or seller of an
155 appliance, as long as no identifiable charge is made for such
156 guarantee. This part does not permit the provision of



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157 indemnification against consequential damages arising from the
158 failure of any structural component or appliance of a home,
159 which practice constitutes the transaction of insurance subject
160 to all requirements of the insurance code. This part does not
161 apply to service contracts entered into between consumers and
162 nonprofit organizations or cooperatives the members of which
163 consist of condominium associations and condominium owners and
164 which perform repairs and maintenance for appliances or
165 maintenance of the residential property. This part does not
166 apply to a contract or agreement offered by a warranty
167 association in compliance with part III, provided such contract
168 or agreement only relates to the systems and appliances of the
169 covered residential property and does not cover any structural
170 component of the residential property.

171 (3) "Home warranty association" means any corporation or
172 any other organization, other than an authorized insurer,
173 issuing home warranties.

174 (4) "Impaired" means having liabilities in excess of
175 assets.

176 (5) "Insolvent" means the inability of a corporation to pay
177 its debts as they become due in the usual course of its
178 business.

179 (6) "Insurance code" means the Florida Insurance Code.

180 (7) "Insurer" means any property or casualty insurer duly
181 authorized to transact such business in this state.

182 (8) "Listing period" means the period of time residential
183 property is listed for sale with a licensed real estate broker,
184 beginning on the date the residence is first listed for sale and
185 ending on either the date the sale of the residence is closed,



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186 the date the residence is taken off the market, or the date the
187 listing contract with the real estate broker expires.

188 (9) "Net assets" means the amount by which the total
189 statutory assets of an association exceed the total liabilities
190 of the association.

191 (10) "Person" includes an individual, company, corporation,
192 association, insurer, agent, and every other legal entity.

193 (11) "Premium" means the total consideration received, or
194 to be received, by an insurer or home warranty association for
195 or related to the issuance and delivery of any binder or
196 warranty, including any charges designated as assessments or
197 fees for policies, surveys, inspections, or service or any other
198 charges.

199 (12) "Sales representative" means any person with whom an
200 insurer or home inspection or warranty association has a
201 contract and who is utilized by such insurer or association for
202 the purpose of selling or issuing home warranties. The term
203 includes all employees of an insurer or association engaged
204 directly in the sale or issuance of home warranties.

205 (13) "Structural component" means the roof, plumbing
206 system, electrical system, foundation, basement, walls,
207 ceilings, or floors of a home.

208 Section 4. Subsection (1) of section 634.312, Florida
209 Statutes, is amended to read:

210 634.312 Forms; required provisions and procedures.—

211 (1) Except as provided in s. 634.350: ~~All~~

212 (a) Home warranty contracts are assignable in a consumer
213 transaction and must contain a statement informing the purchaser
214 of the home warranty of her or his right to assign it, at least



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215 within 15 days from the date the home is sold or transferred, to
216 a subsequent retail purchaser of the home covered by the home
217 warranty and all conditions on such right of transfer.

218 (b) The home warranty company may charge an assignment fee
219 not to exceed \$40.

220 (c) Home warranty assignments include, but are not limited
221 to, the assignment from a home builder who purchased the home
222 warranty to a subsequent home purchaser.

223 Section 5. Section 634.331, Florida Statutes, is amended to
224 read:

225 634.331 Coverage of property for sale.—A home warranty may
226 provide coverage of residential property during the listing
227 period of such property for a period not to exceed 12 months,
228 provided that the home warranty company charges the warranty
229 purchaser a separately identifiable charge for the listing
230 period coverage in an amount equal to at least 15 percent of the
231 annual premium charged for the home warranty and the charge for
232 such coverage is due at the ~~earlier of the~~ end of the listing
233 period ~~or the date the sale of the residential property is~~
234 closed. The requirements in s. 634.350 apply to a home warranty
235 that is transferred to the home purchaser.

236 Section 6. Section 634.350, Florida Statutes, is created to
237 read:

238 634.350 Automatic transfer of home warranties.—

239 (1) As used in this section, the term:

240 (a) "Builder" means the primary general contractor,
241 building contractor, residential contractor, or roofing
242 contractor of a home who has the responsibility to supervise,
243 direct, manage, and control the contracting activities of the



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244 business organization with which he or she is connected and who
245 has the responsibility to supervise, direct, manage, and control
246 the construction work on a job for which he or she has obtained
247 a building permit. Construction work includes, but is not
248 limited to, construction of structural components.

249 (b) "Home" means any residential real property, or
250 manufactured or modular home, which is a single-family dwelling,
251 duplex, triplex, or quadruplex.

252 (c) "Indemnify" means to undertake repair or replacement of
253 a home's structural component, or pay compensation for such
254 repair or replacement by cash, check, or other similar means,
255 including, but not limited to, electronic means.

256 (d) "Structural component" means one or more essential
257 elements of a home, including the roof, foundation, basement,
258 exterior or interior walls, electrical and plumbing systems,
259 ceilings, or floors. The term includes any item covered in the
260 terms of a home warranty.

261 (2) Except as provided in this section, if a builder
262 purchases a home warranty from a licensed home warranty
263 association on or after January 1, 2025, which covers any of the
264 structural components or any spray foam of a home, and such
265 warranty has not become null and void or lawfully terminated
266 under the terms of the warranty, the home warranty and all
267 indemnification rights, terms, and conditions thereunder shall
268 automatically transfer to any subsequent purchaser of the home
269 for the duration of the home warranty. However, the home
270 warranty may not contain a term that terminates the warranty
271 based on the subsequent purchase alone.

272 (3) A subsequent purchaser who receives the benefit of a



273 warranty being automatically transferred to him or her for the
274 duration of the home warranty pursuant to this section must
275 notify the home warranty association that he or she has
276 purchased the home and therefore is the warrantee under the home
277 warranty. Such notice may be given at any time while the
278 warranty remains in effect. A home warranty association may not
279 require in the terms of a warranty a shorter notice period than
280 provided for in this subsection.

281 (4) A subsequent purchaser may not be required to purchase
282 or assume a contractual obligation for a home maintenance
283 contract as a condition of a home warranty.

284 (5) This section does not:

285 (a) Create a warranty, create any new indemnification
286 rights or obligations, modify or extend the commencement date or
287 the duration, or expand the scope of coverage, of the home
288 warranty beyond the home warranty's terms.

289 (b) Require a home warranty association to be obligated
290 under a warranty that has become null and void pursuant to the
291 terms of the warranty.

292 (c) Require a home warranty association to indemnify a home
293 purchaser or subsequent purchaser for any structural component,
294 other component, item, or product of a home covered under the
295 terms of an express written warranty which is substantially
296 damaged or substantially modified by the home purchaser or a
297 subsequent purchaser.

298 Section 7. This act shall take effect July 1, 2024.

299
300 ===== T I T L E A M E N D M E N T =====

301 And the title is amended as follows:



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302 Delete everything before the enacting clause
303 and insert:

304 A bill to be entitled
305 An act relating to transfers of home warranties;
306 amending s. 489.129, F.S.; authorizing the
307 Construction Industry Licensing Board to take certain
308 disciplinary actions if a certain provision is
309 violated; creating s. 489.150, F.S.; defining terms;
310 providing that certain express written warranties and
311 all rights, terms, and conditions thereunder
312 automatically transfer to any subsequent purchaser
313 under certain circumstances; requiring that certain
314 express written warranties automatically transfer to
315 subsequent purchasers; providing an exception;
316 providing that the subsequent purchaser is obligated
317 to comply with the terms and conditions of the home
318 maintenance contract under certain circumstances;
319 requiring the builder to provide notice of amounts due
320 under the home maintenance contract to a subsequent
321 purchaser in a specified manner; providing an
322 exception; providing that certain home maintenance
323 contracts shall transfer to a subsequent purchaser
324 only under certain conditions; requiring certain
325 subsequent purchasers to make a certain notification
326 to the builder at a specified time; prohibiting a
327 builder from requiring a shorter notice period;
328 prohibiting a builder from charging a fee for certain
329 transfers of warranties; providing construction;
330 amending ss. 634.301 and 634.312, F.S.; conforming



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331 provisions to changes made by the act; amending s.
332 634.331, F.S.; revising when certain charges for a
333 home warranty are due; providing applicability;
334 creating s. 634.350, F.S.; defining terms; providing
335 that home warranties and all rights, terms, and
336 conditions thereunder automatically transfer to any
337 subsequent purchaser under certain circumstances;
338 prohibiting a home warranty from containing a certain
339 term; requiring certain subsequent purchasers to make
340 a certain notification to the home warranty
341 association within a specified timeframe; prohibiting
342 a home warranty association from requiring a shorter
343 notice period; prohibiting a subsequent purchaser from
344 being required to purchase or assume certain
345 contractual obligations; providing construction;
346 providing an effective date.