

THE FLORIDA SENATE
2012 SUMMARY OF LEGISLATION PASSED
Committee on Banking and Insurance

CS/CS/HB 1011 — Warranty Associations

by Government Operations Appropriations Subcommittee; Insurance and Banking Subcommittee; and Rep. Abruzzo, and others (CS/CS/SB 1262 by Budget Subcommittee on General Government Appropriations; Banking and Insurance Committee and Senator Oelrich)

The bill provides criteria for motor vehicle service agreement companies to effectuate refunds through the issuing salesperson or agent. The bill deletes the provision excluding service agreements sold to persons other than consumers that cover motor vehicles used for commercial purposes. Therefore, motor vehicle service agreement coverage for commercial vehicles having a gross weight rating of less than 10,000 pounds will be required to be offered through a regulated company and vehicles over 10,000 pounds will continue to not be covered.

Under the bill if a motor vehicle service agreement company effectuates refunds through the issuing salesperson or agent, the company must send to the salesperson or agent effectuating the refund the unearned pro rata premium refund due less any unearned pro rata commission. The salesperson or agent must then refund the unearned pro rata premium including any unearned pro rata commission and the sales tax to the service agreement holder. The bill requires the salesperson, agent, or company maintain a copy of certain specified documents demonstrating the occurrence of the refund to the service agreement holder. The salesperson or agent effectuating the refund shall provide a copy of the required documentation to the company within 45 days after a request is made by the Department of Financial Services (DFS) or the Office of Insurance Regulation (OIR). If the OIR finds that a salesperson or agent exhibits a pattern or practice of failing to properly effectuate refunds owed or to maintain and remit to the service agreement company the required documentation, the OIR shall notify the DFS.

The bill authorizes home and service warranty associations to effectuate refunds through the issuing sales representative. The bill provides that refunds for service warranties may be made by cash, check, store credit, gift card, or other similar means. The bill provides that upon the request of the service warranty holder the refund must be remitted by check.

The bill provides that the OIR is not required to conduct periodic examinations of motor vehicle service agreement companies, home warranty associations, or service warranty associations but may at the OIR's discretion. An examination may only cover a period of the most recent 5 years. The bill provides that the costs of an examination conducted by an independent examiner is limited to no more than 10 percent of the companies' prior year reported net income. The bill maintains that if the OIR examines a service warranty association that has less than \$20,000 in gross written premiums, the examination fee may not exceed 5 percent of the gross written premiums of the association.

Additionally, the bill creates new provisions that allow a governmental unit, public agency, institution, person, firm, or legal entity to provide money to the DFS to enable the DFS to pursue unauthorized entities operating in violation of provisions relating to warranty associations. The DFS may transfer the funds to the OIR to pursue unauthorized entities. The bill requires all

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donations to the DFS be deposited into the Insurance Regulatory Trust Fund (fund) and separately accounted for. The bill allows money deposited into the fund to be appropriated by the Legislature pursuant to ch. 216, F.S., for the purpose of enabling the DFS or the OIR to pursue unauthorized warranty entities. The bill provides that any balance of moneys deposited into the fund for the purpose of pursuing unauthorized warranty entities and remaining at the end of any fiscal year shall be available for carrying out the duties of the DFS or the OIR.

If approved by the Governor, these provisions take effect July 1, 2012.

Vote: Senate 40-0; House 116-0