Florida Senate - 2005

CS for CS for SB 2498

 ${\bf By}$ the Committees on Judiciary; Banking and Insurance; and Senator Campbell

590-2345-05

1	A bill to be entitled
2	An act relating to warranty associations;
3	amending s. 634.271, F.S.; providing an
4	exemption from penalty provisions for certain
5	service warranties; providing actual damages
6	and costs for violations for which such
7	statutory penalties do not apply; providing
8	retroactive applicability; amending s. 634.401,
9	F.S.; redefining the term "service warranty";
10	providing an effective date.
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12	Be It Enacted by the Legislature of the State of Florida:
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14	Section 1. Subsection (5) is added to section 634.271,
15	Florida Statutes, to read:
16	634.271 Civil remedy
17	(5) The penalty provisions in ss. 520.12 and 521.006,
18	as well as the statutory penalty in subsection (1), do not
19	apply to any violation of this part or chapters 520 and 521
20	relating to or in connection with the sale or failure to
21	<u>disclose in a retail installment contract or lease, prior to</u>
22	April 23, 2002, of a vehicle protection product, or contract
23	or agreement that provides for payment of vehicle protection
24	expenses, as defined in s. 634.011(7)(b)1., so long as the
25	sale of such product, contract, or agreement was otherwise
26	disclosed to the consumer in writing at the time of the
27	purchase or lease. However, in the event of a violation for
28	which such statutory penalties do not apply, the court shall
29	award actual damages and costs, including reasonable
30	attorney's fees. Nothing in this subsection shall be construed
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1 to require the application of the referenced statutory penalty provisions where this subsection is not applicable. 2 Section 2. Subsection (13) of section 634.401, Florida 3 Statutes, is amended to read: 4 5 634.401 Definitions.--As used in this part, the term: б (13) "Service warranty" means any warranty, quaranty, 7 extended warranty or extended guaranty, maintenance service 8 contract equal to or greater than 1 year in length or which 9 does not meet the exemption in paragraph (a), contract_ agreement, or other written promise for a specific duration to 10 perform the repair, replacement, or maintenance of a consumer 11 12 product, or for indemnification for repair, replacement, or 13 maintenance, for the operational or structural failure due to a defect in materials or workmanship, normal wear and tear, 14 power surge, or accidental damage from handling to indemnify 15 against the cost of repair or replacement of a consumer 16 17 product in return for the payment of a segregated charge by 18 the consumer; however: (a) Maintenance service contracts written for <u>less</u> 19 than 1 year or less which do not contain provisions for 20 21 indemnification and which do not provide a discount to the 22 consumer for any combination of parts and labor in excess of 23 20 percent during the effective period of such contract, motor vehicle service agreements, transactions exempt under s. 2.4 624.125, and home warranties subject to regulation under parts 25 26 I and II of this chapter are excluded from this definition; 27 and 2.8 (b) The term "service warranty" does not include 29 service contracts between consumers and condominium 30 associations; and. 31

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(c) All contracts that include coverage for accidental damage from handling must be covered by the contractual liability policy referred to in s. 634.406(3). Section 3. This act shall take effect upon becoming a law and the provisions of this act amending section 634.271, Florida Statutes, apply retroactively to January 1, 1998. STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN COMMITTEE SUBSTITUTE FOR CS/Senate Bill 2498 The committee substitute makes the following changes to the underlying committee substitute: Limits the retroactivity provision so that it only applies to the proposed revision to s. 634.271, F.S.; and _ _ Makes a technical amendment.

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