

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1205

Motor Vehicle Warranty Associations

**SPONSOR(S):** Richardson

**TIED BILLS:**

**IDEN./SIM. BILLS:**

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Insurance</u>	<u>13 Y, 0 N</u>	<u>Reilly/Topp</u>	<u>Overton</u>
2) <u>Jobs &amp; Entrepreneurship Council</u>	<u>14 Y, 0 N, As CS</u>	<u>Reilly/Topp</u>	<u>Thorn</u>
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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### SUMMARY ANALYSIS

Chapter 634, F.S., governs the regulation of warranty associations, including motor vehicle service agreement companies and service warranty associations. Motor vehicle service agreements provide vehicle owners with protection when the manufacturer's warranty expires. Service warranty contracts for consumer electronics and appliances allow consumers to extend the product protection beyond the manufacturer's warranty terms.

Although a warranty is not considered a traditional insurance product, it protects purchasers from future risks and associated costs. In Florida, warranty associations are regulated by the Office of Insurance Regulation (OIR). OIR's regulatory authority includes approval of forms, investigation of complaints, and monitoring of reserve requirements, among other duties. However, OIR is not required to approve rates for warranties.

HB 1205 defines "motor vehicle manufacturer" under ch. 634, F.S., to include large motor vehicle manufacturers, their subsidiaries, and corporations that wholly own motor vehicle manufacturers. It provides for motor vehicle manufacturers that sell warranties to continue to be licensed as service agreement companies, but exempts such manufacturers from financial solvency provisions. In applying for licensure as a service agreement company, a motor vehicle manufacturer may be required to submit fingerprints, background information, or biographical statements only of the manufacturer's officers and directors. Further, OIR is required to develop by rule an abbreviated form for statistical reporting of sales of service agreements by motor vehicle manufacturers.

The bill establishes that it is an unfair trade practice for warranty associations that do not obtain the names and addresses of warranty holders to deny a claim based on the association's inability to confirm whether the warranty was purchased. It also amends Florida's warranty register law to require warranty associations that do not collect the names of warranty holders at the time the product is purchased to provide another method for warranty holders to provide the information.

The bill is effective upon becoming law.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. HOUSE PRINCIPLES ANALYSIS:

**Provide Limited Government:** Under the bill a motor vehicle manufacturer that sells warranties is exempt from specified regulatory provisions.

### B. EFFECT OF PROPOSED CHANGES:

Chapter 634, F.S., regulates warranty associations, including motor vehicle<sup>1</sup> service agreement companies and service warranty associations. Motor vehicle service agreements offer vehicle owners protection when the manufacturer's warranty expires. Service warranty contracts for consumer electronics and appliances allow consumers to extend the product protection beyond the manufacturer's warranty terms.

While a warranty is not considered a traditional insurance product, it protects purchasers from future risks and associated costs. In Florida, warranty associations are regulated by the Office of Insurance Regulation (OIR). OIR's regulatory authority of warranty associations includes approval of forms, investigation of complaints, and monitoring of reserve requirements, among other duties. However, OIR is not required to approve rates for warranties.

The bill defines "motor vehicle manufacturer" as an entity that:

- Manufactures or produces motor vehicles and sells motor vehicles under its own label;
- Is a subsidiary of an entity that manufactures or produces motor vehicles; or
- Is a corporation which owns 100 percent of an entity that manufactures or produces motor vehicles.

Nationwide, approximately one-third of all new car purchasers and nearly half of all used car purchasers buy a service contract.<sup>2</sup> HB 1205 provides for motor vehicle manufacturers that sell warranties to continue to be licensed as service agreement companies, but exempts such manufacturers from financial solvency provisions. To be licensed as a service agreement company, a motor vehicle manufacturer must furnish OIR with satisfactory evidence that its management is competent and trustworthy and can successfully manage its affairs, produce an annual report with all required information, and respond as soon as reasonably possible to written requests from OIR for information as to the manufacturer's transactions or affairs. In applying for licensure as a service agreement company, a motor vehicle manufacturer may only be required to submit the fingerprints, background information or biographical statements of its officers and directors. The bill also requires OIR to develop by rule an abbreviated form for statistical reporting of sales of service agreements in Florida by motor vehicle manufacturers in lieu of full financial reporting.

The bill also establishes that it is an unfair trade practice for warranty associations that do not obtain the names and addresses of warranty holders to deny a claim based solely on the association's inability to confirm whether the warranty was purchased. It also amends Florida's registry law to require service warranty associations that do not collect the names and addresses of warranty holders at the time a product is purchased to provide another method for warranty holders to provide this information.

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<sup>1</sup> Section 634(6) defines motor vehicle, in part, as "A self-propelled device operated solely or primarily upon roadways to transport people or property, or the component part of such a self-propelled device," and provides exceptions.

<sup>2</sup> Service Contract Industry Council (SCIC) website, [www.go-scic.com](http://www.go-scic.com). SCIC is a national trade association whose members collectively offer approximately 80 percent of all appliance, consumer electronics, home, and vehicle service contracts sold in the United States.

C. SECTION DIRECTORY:

**Section 1:** Amends 628.4615, F.S., to conform a cross reference.

**Section 2:** Amends 634.011, F.S., to define motor vehicle manufacturer.

**Section 3:** Amends 634.041, F.S., to amend qualifications for motor vehicle manufacturers that sell warranties to be licensed as service agreement companies.

**Section 4:** Amends 634.137, F.S., to require OIR to develop by rule an abbreviated form for statistical reporting sales of service agreements by motor vehicle manufacturers.

**Section 5:** Amends 634.271, F.S., to conform a cross reference.

**Section 6:** Amends 634.4165, F.S., pertaining to information that must be maintained by service warranty associations.

**Section 7:** Amends 634.436, F.S., relating to unfair claim settlement practices. .

**Section 8:** Provides for the act to take effect upon becoming law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision does not apply because the bill does not: require counties or municipalities to spend funds or to take an action requiring the expenditure of funds; reduce the authority that municipalities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The Office of Insurance Regulation is required to develop by rule an abbreviated form for statistical reporting of sales of service agreements in Florida by motor vehicle manufacturers.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**D. STATEMENT OF THE SPONSOR**

No statement submitted.

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

On March 20, 2008, the Committee on Insurance adopted one amendment which:

- Narrows the definition of motor vehicle manufacturer.
- Requires motor vehicle manufacturers that sell warranties to be licensed as service agreement companies, but exempts such manufacturers from financial solvency provisions.
- Limits fingerprinting associated with a motor vehicle manufacturer's application for licensure as a service agreement company to officers and directors of the applicant entity.
- Provides that it is an unfair trade practice for warranty associations that do not obtain the name and address of warranty holders to deny a warranty holder's claim based on the association's inability to obtain the purchaser's name and address.
- Requires warranty associations that do not collect the names of warranty holders at the time the product is purchased to provide another method for warranty holders to provide the information.
- Amends the effective date to make the bill effective upon becoming law.

On March 27, 2008, the Jobs & Entrepreneurship Council adopted one amendment, which requires the Office of Insurance Regulation to develop by rule an abbreviated form for statistical reporting of sales of service agreements in Florida by motor vehicle manufacturers.