

By Senator Bennett

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1 A bill to be entitled
2 An act relating to warranty associations; amending s.
3 628.4615, F.S., relating to specialty insurers;
4 conforming a cross-reference; amending s. 634.011,
5 F.S.; revising the definition of the term "motor
6 vehicle service agreement"; amending s. 634.031, F.S.;
7 providing penalties for certain licensure violations;
8 amending s. 634.041, F.S., relating to qualifications
9 for licensure; conforming cross-references; amending
10 s. 634.095, F.S.; prohibiting service agreement
11 companies from issuing certain deceptive
12 advertisements, operating without a subsisting
13 license, or remitting premiums to a person other than
14 the obligated service agreement company; amending s.
15 634.121, F.S.; deleting a requirement that certain
16 service agreement forms be approved by the Office of
17 Insurance Regulation of the Financial Services
18 Commission; amending s. 634.1213, F.S.; authorizing
19 the office to order a service agreement company to
20 stop using forms that do not comply with specified
21 requirements; amending s. 634.137, F.S.; deleting a
22 schedule for the submissions of certain reports;
23 amending s. 634.141, F.S.; providing guidelines for
24 the office to use in determining whether to examine a
25 company; amending s. 634.1815, F.S.; requiring certain
26 rebates to be approved by the company issuing a
27 service agreement; amending s. 634.282, F.S.;
28 clarifying provisions relating to the refund of excess
29 premiums or charges; requiring that a consumer receive

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30 a sample copy of the service agreement prior to the
31 sale of a service agreement; amending s. 634.301,
32 F.S.; revising certain definitions relating to home
33 warranties; amending s. 634.303, F.S.; providing that
34 it is a first-degree misdemeanor for a person without
35 a subsisting license to provide or offer to provide
36 home warranties; amending s. 634.308, F.S.; providing
37 an exception to certain grounds for licensure
38 suspension or revocation; amending s. 634.312, F.S.;
39 deleting a requirement that certain home warranty
40 agreement forms be approved by the office; amending s.
41 634.3123, F.S.; authorizing the office to order a home
42 warranty association to stop using forms that do not
43 comply with specified requirements; amending s.
44 634.314, F.S.; providing guidelines for the office to
45 use in determining whether to examine an association;
46 amending s. 634.3205, F.S.; requiring certain rebates
47 to be approved by the association issuing a service
48 agreement; amending s. 634.336, F.S.; requiring that a
49 consumer receive a sample copy of the service
50 agreement prior to the sale of a service agreement;
51 amending s. 634.344, F.S.; prohibiting certain
52 coercive actions relating to the sale of a home
53 warranty in connection with the lending of money;
54 amending s. 634.401, F.S.; redefining the term
55 "indemnify"; amending s. 634.403, F.S.; providing that
56 it is a first-degree misdemeanor for a person without
57 a subsisting license to provide or offer to provide
58 service warranties; amending s. 634.406, F.S.,

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59 relating to financial requirements; conforming a
60 cross-reference; amending s. 634.414, F.S.; deleting a
61 requirement that certain service warranty forms be
62 approved by the office; deleting certain requirements
63 relating to the display of the issuing association's
64 name on literature; amending s. 634.4145, F.S.;
65 authorizing the office to order a service warranty
66 association to stop using forms that do not comply
67 with specified requirements; amending s. 634.415,
68 F.S.; deleting a requirement that associations file
69 certain quarterly statements and special reports;
70 amending s. 634.416, F.S.; providing guidelines for
71 the office to use in determining whether to examine a
72 service warranty association; amending s. 634.4225,
73 F.S.; requiring certain rebates to be approved by the
74 association issuing a service warranty; amending s.
75 634.436, F.S.; requiring that a consumer receive a
76 sample copy of the service agreement prior to the sale
77 of a service agreement; repealing s. 634.1216, F.S.,
78 relating to required rate filings; repealing s.
79 634.136(2) and (3), F.S., relating to certain records
80 required to be maintained by motor vehicle service
81 contract companies; repealing s. 634.3126, F.S.,
82 relating to required rate filings; repealing s.
83 634.313(4), F.S., relating to required reports
84 relating to taxes on premiums; providing an effective
85 date.

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87 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Subsection (1) of section 628.4615, Florida Statutes, is amended to read:

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

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

(a) A motor vehicle service agreement company authorized to issue motor vehicle service agreements as those terms are defined in s. 634.011;

(b) A home warranty association authorized to issue "home warranties" as those terms are defined in s. 634.301(2) and (3) ~~s. 634.301(3) and (4)~~;

(c) A service warranty association authorized to issue "service warranties" as those terms are defined in s. 634.401(13) and (14);

(d) A prepaid limited health service organization authorized to issue prepaid limited health service contracts, as those terms are defined in chapter 636;

(e) An authorized health maintenance organization operating pursuant to s. 641.21;

(f) An authorized prepaid health clinic operating pursuant to s. 641.405;

(g) A legal expense insurance corporation authorized to engage in a legal expense insurance business pursuant to s. 642.021;

(h) A provider which is licensed to operate a facility

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117 which undertakes to provide continuing care as those terms are
118 defined in s. 651.011(2), (4), (5), and (6);

119 (i) A multiple-employer welfare arrangement operating
120 pursuant to ss. 624.436-624.446;

121 (j) A premium finance company authorized to finance
122 insurance premiums pursuant to s. 627.828; or

123 (k) A corporation authorized to accept donor annuity
124 agreements pursuant to s. 627.481.

125 Section 2. Subsection (8) of section 634.011, Florida
126 Statutes, is amended to read:

127 634.011 Definitions.—As used in this part, the term:

128 (8) "Motor vehicle service agreement" or "service
129 agreement" means any contract or agreement indemnifying the
130 service agreement holder for the motor vehicle listed on the
131 service agreement and arising out of the ownership, operation,
132 and use of the motor vehicle against loss caused by failure of
133 any mechanical or other component part, or any mechanical or
134 other component part that does not function as it was originally
135 intended; however, nothing in this part shall prohibit or affect
136 the giving, free of charge, of the usual performance guarantees
137 by manufacturers or dealers in connection with the sale of motor
138 vehicles. Transactions exempt under s. 624.125 are expressly
139 excluded from this definition and are exempt from the provisions
140 of this part. Service agreements that are sold to persons other
141 than consumers are excluded from this definition and are exempt
142 from regulation under the Florida Insurance Code. The term
143 "motor vehicle service agreement" includes any contract or
144 agreement that provides:

145 (a) For the coverage or protection defined in this

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146 subsection and which is issued or provided in conjunction with
147 an additive product applied to the motor vehicle that is the
148 subject of such contract or agreement;

149 (b) For payment of vehicle protection expenses.

150 1.a. "Vehicle protection expenses" means a preestablished
151 flat amount payable for the loss of or damage to a vehicle or
152 expenses incurred by the service agreement holder for loss or
153 damage to a covered vehicle, including, but not limited to,
154 applicable deductibles under a motor vehicle insurance policy;
155 temporary vehicle rental expenses; expenses for a replacement
156 vehicle that is at least the same year, make, and model of the
157 stolen motor vehicle; sales taxes or registration fees for a
158 replacement vehicle that is at least the same year, make, and
159 model of the stolen vehicle; or other incidental expenses
160 specified in the agreement.

161 b. "Vehicle protection product" means a product or system
162 installed or applied to a motor vehicle or designed to prevent
163 the theft of the motor vehicle or assist in the recovery of the
164 stolen motor vehicle.

165 2. Vehicle protection expenses shall be payable in the
166 event of loss or damage to the vehicle as a result of the
167 failure of the vehicle protection product to prevent the theft
168 of the motor vehicle or to assist in the recovery of the stolen
169 motor vehicle. Vehicle protection expenses covered under the
170 agreement shall be clearly stated in the service agreement form,
171 unless the agreement provides for the payment of a
172 preestablished flat amount, in which case the service agreement
173 form shall clearly identify such amount.

174 3. Motor vehicle service agreements providing for the

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175 payment of vehicle protection expenses shall either:

176 a. Reimburse a service agreement holder for the following
177 expenses, at a minimum: deductibles applicable to comprehensive
178 coverage under the service agreement holder's motor vehicle
179 insurance policy; temporary vehicle rental expenses; sales taxes
180 and registration fees on a replacement vehicle that is at least
181 the same year, make, and model of the stolen motor vehicle; and
182 the difference between the benefits paid to the service
183 agreement holder for the stolen vehicle under the service
184 agreement holder's comprehensive coverage and the actual cost of
185 a replacement vehicle that is at least the same year, make, and
186 model of the stolen motor vehicle; or

187 b. Pay a preestablished flat amount to the service
188 agreement holder.

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190 Payments shall not duplicate any benefits or expenses paid to
191 the service agreement holder by the insurer providing
192 comprehensive coverage under a motor vehicle insurance policy
193 covering the stolen motor vehicle; however, the payment of
194 vehicle protection expenses at a preestablished flat amount of
195 \$5,000 or less does not duplicate any benefits or expenses
196 payable under any comprehensive motor vehicle insurance policy;
197 or

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

201 2. "Paintless dent-removal" means the process of removing
202 dents, dings, and creases, including hail damage, from a vehicle
203 without affecting the existing paint finish, but does not

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204 include services that involve the replacement of vehicle body
205 panels or sanding, bonding, or painting.

206 Section 3. Subsection (7) is added to section 634.031,
207 Florida Statutes, to read:

208 634.031 License required.—

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

212 Section 4. Paragraph (b) of subsection (8) and paragraph
213 (b) of subsection (11) of section 634.041, Florida Statutes, are
214 amended to read:

215 634.041 Qualifications for license.—To qualify for and hold
216 a license to issue service agreements in this state, a service
217 agreement company must be in compliance with this part, with
218 applicable rules of the commission, with related sections of the
219 Florida Insurance Code, and with its charter powers and must
220 comply with the following:

221 (8)

222 (b) A service agreement company does not have to establish
223 and maintain an unearned premium reserve if it purchases and
224 maintains contractual liability insurance in accordance with the
225 following:

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

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

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233 service agreement holder all legitimate claims and cancellation
234 refunds for all service agreements issued by the service
235 agreement company while the policy was in effect. This
236 requirement also applies to those service agreements for which
237 no premium has been remitted to the insurer.

238 3. If the issuer of the contractual liability policy is
239 fulfilling the service agreements covered by the contractual
240 liability policy and the service agreement holder cancels the
241 service agreement, the issuer must make a full refund of
242 unearned premium to the consumer, subject to the cancellation
243 fee provisions of s. 634.121(3) ~~s. 634.121(5)~~. The sales
244 representative and agent must refund to the contractual
245 liability policy issuer their unearned pro rata commission.

246 4. The policy may not be canceled, terminated, or
247 nonrenewed by the insurer or the service agreement company
248 unless a 90-day written notice thereof has been given to the
249 office by the insurer before the date of the cancellation,
250 termination, or nonrenewal.

251 5. The service agreement company must provide the office
252 with the claims statistics.

253
254 All funds or premiums remitted to an insurer by a motor vehicle
255 service agreement company under this part shall remain in the
256 care, custody, and control of the insurer and shall be counted
257 as an asset of the insurer; provided, however, this requirement
258 does not apply when the insurer and the motor vehicle service
259 agreement company are affiliated companies and members of an
260 insurance holding company system. If the motor vehicle service
261 agreement company chooses to comply with this paragraph but also

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262 maintains a reserve to pay claims, such reserve shall only be
263 considered an asset of the covered motor vehicle service
264 agreement company and may not be simultaneously counted as an
265 asset of any other entity.

266 (11)

267 (b) Notwithstanding any other requirement of this part, a
268 service agreement company maintaining an unearned premium
269 reserve on all service agreements in accordance with paragraph
270 (8) (a) may offer service agreements providing vehicle protection
271 expenses if it maintains contractual liability insurance only on
272 all service agreements providing vehicle protection expenses and
273 continues to maintain the 50-percent reserve for all service
274 agreements not providing vehicle protection expenses. A service
275 agreement company maintaining contractual liability insurance
276 for all service agreements providing vehicle protection expenses
277 and the 50-percent reserve for all other service agreements
278 must, in the service agreement register as required under s.
279 634.136(2) ~~s. 634.136(4)~~, distinguish between insured service
280 agreements providing vehicle protection expenses and service
281 agreements not providing vehicle protection expenses.

282 Section 5. Section 634.095, Florida Statutes, is amended to
283 read:

284 634.095 Prohibited acts.—Any service agreement company or
285 salesperson that engages in one or more of the following acts
286 is, in addition to any applicable denial, suspension,
287 revocation, or refusal to renew or continue any appointment or
288 license, guilty of a misdemeanor of the second degree,
289 punishable as provided in s. 775.082 or s. 775.083:

290 (1) No salesperson or agent who participates in or

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291 influences the processing, administration, or adjustment of
292 claims shall enter into any agreement or understanding in which
293 the effect is to make the amount of any salesperson's or agent's
294 commission contingent upon savings effected in the adjustment,
295 settlement, and payment of losses covered by the service
296 agreement company's or insurer's service agreement. Any
297 agreement or understanding now existing is declared unlawful and
298 shall be terminated immediately.

299 (2) Offering or attempting to offer the service agreement
300 holder a return of all or a portion of the premium paid if the
301 service agreement holder does not file any claims or files a
302 limited number of claims or files claims the dollar amount of
303 which does not exceed a set amount or percentage.

304 (3) Issuing or causing to be issued any advertisement
305 which:

306 (a) Does not fully disclose in boldfaced type the name,
307 address, and license number of the service agreement company.

308 (b) In any respect is in violation of or does not comply
309 with this part, applicable provisions of the Florida Insurance
310 Code, or applicable rule of the commission.

311 (c) Is ambiguous, misleading, or deceptive.

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

313 1. The service agreement company's affiliation with a motor
314 vehicle manufacturer;

315 2. The service agreement company's possession of
316 information regarding a motor vehicle owner's current motor
317 vehicle manufacturer's original equipment warranty;

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

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320 4. Any requirement that the motor vehicle owner register
321 for a new motor vehicle service agreement with the company in
322 order to maintain coverage under the current motor vehicle
323 service agreement or manufacturer's original equipment warranty.

324 (4) Denying claims for lack of service or maintenance on
325 component parts that do not require servicing or routine
326 maintenance or are unrelated to servicing.

327 (5) Requiring that the purchaser or insured agree to
328 purchase noninsurance services, commodities, or other insurance
329 including automobile services as specified in s. 624.124 or
330 exempt motor vehicle service agreements specified in s. 624.125.

331 (6) The practice, known as sliding, by any person whereby
332 the person:

333 (a) Represents to the applicant that a specific ancillary
334 coverage or product is required by law in conjunction with the
335 purchase of a service agreement, when in fact the specific
336 ancillary coverage or product is not required;

337 (b) Represents to the applicant that a specific ancillary
338 coverage or product is included in the service agreement applied
339 for without an additional charge, when in fact an additional
340 charge is applied; or

341 (c) Charges an applicant for a specific ancillary coverage
342 or product, over and above the cost of the service coverage
343 applied for, without the informed consent of the applicant.

344 (7) Remitting premiums received on motor vehicle service
345 agreements sold to any person other than the licensed service
346 agreement company that is obligated to perform thereunder, if
347 the agreement between such company and the salesperson requires
348 that premiums be submitted directly to the service agreement

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349 company.

350 Section 6. Section 634.121, Florida Statutes, is amended to
351 read:

352 634.121 ~~Filing of~~ Forms, required procedures, provisions.-

353 ~~(1) A service agreement form or related form may not be~~
354 ~~issued or used in this state unless it has been filed with and~~
355 ~~approved by the office. Upon application for a license, the~~
356 ~~office shall require the applicant to submit for approval each~~
357 ~~brochure, pamphlet, circular, form letter, advertisement, or~~
358 ~~other sales literature or advertising communication addressed or~~
359 ~~intended for distribution. The office shall disapprove any~~
360 ~~document which is untrue, deceptive, or misleading or which~~
361 ~~contains misrepresentations or omissions of material facts.~~

362 ~~(a) After an application has been approved, a licensee is~~
363 ~~not required to submit brochures or advertisement to the office~~
364 ~~for approval; however, a licensee may not have published, and a~~
365 ~~person may not publish, any brochure or advertisement which is~~
366 ~~untrue, deceptive, or misleading or which contains~~
367 ~~misrepresentations or omissions of material fact.~~

368 ~~(b) For purposes of this section, brochures and advertising~~
369 ~~includes, but is not limited to, any report, circular, public~~
370 ~~announcement, certificate, or other printed matter or~~
371 ~~advertising material which is designed or used to solicit or~~
372 ~~induce any persons to enter into any motor vehicle service~~
373 ~~agreement.~~

374 ~~(c) The office shall disapprove any service agreement form~~
375 ~~providing vehicle protection expenses which does not clearly~~
376 ~~indicate either the method for calculating the benefit to be~~
377 ~~paid or provided to the service agreement holder or the~~

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378 ~~preestablished flat amount payable pursuant to the terms of the~~
379 ~~service agreement. All service agreement forms providing vehicle~~
380 ~~protection expenses shall clearly indicate the term of the~~
381 ~~service agreement, whether new or used cars are eligible for the~~
382 ~~vehicle protection product, and that the service agreement~~
383 ~~holder may not make any claim against the Florida Insurance~~
384 ~~Guarantee Association for vehicle protection expenses. The~~
385 ~~service agreement shall be provided to a service agreement~~
386 ~~holder on a form that provides only vehicle protection expenses.~~
387 ~~A service agreement form providing vehicle protection expenses~~
388 ~~must state that the service agreement holder must have in force~~
389 ~~at the time of loss comprehensive motor vehicle insurance~~
390 ~~coverage as a condition precedent to requesting payment of~~
391 ~~vehicle protection expenses.~~

392 ~~(2) Every filing required under this section must be made~~
393 ~~not less than 30 days in advance of issuance or use. At the~~
394 ~~expiration of 30 days from the date of filing, a form so filed~~
395 ~~becomes approved unless prior thereto it has been affirmatively~~
396 ~~disapproved by written notice of the office. The office may~~
397 ~~extend by not more than an additional 15 days the period within~~
398 ~~which it may affirmatively approve or disapprove any form by~~
399 ~~giving notice of extension before the expiration of the initial~~
400 ~~30-day period. At the expiration of any period as so extended~~
401 ~~and in the absence of prior affirmative disapproval, the form~~
402 ~~becomes approved.~~

403 ~~(1)~~(3) Before the sale of any service agreement, written
404 notice must be given to the prospective purchaser by the service
405 agreement company or its agent or salesperson, ~~on an office-~~
406 ~~approved form,~~ that purchase of the service agreement is not

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407 required in order to purchase or obtain financing for a motor
408 vehicle.

409 (2)~~(4)~~ All motor vehicle service agreements are assignable
410 in a consumer transaction and must contain a statement in
411 conspicuous, boldfaced type, informing the purchaser of the
412 service agreement of her or his right to assign it to a
413 subsequent retail purchaser of the motor vehicle covered by the
414 service agreement and all conditions on such right of transfer.
415 The assignment must occur within a period of time specified in
416 the agreement, which period may not expire earlier than 15 days
417 after the date of the sale or transfer of the motor vehicle. The
418 service agreement company may charge an assignment fee not to
419 exceed \$40.

420 (3)~~(5)~~ (a) Each service agreement must contain a
421 cancellation provision. Any service agreement is cancelable by
422 the purchaser within 60 days after purchase. The refund must be
423 100 percent of the gross premium paid, less any claims paid on
424 the agreement. A reasonable administrative fee may be charged
425 not to exceed 5 percent of the gross premium paid by the
426 agreement holder.

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

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

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

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

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436 4. For nonpayment of premium by the agreement holder, in
437 which case the service agreement company shall provide the
438 agreement holder notice of cancellation by certified mail.

439
440 If the service agreement is canceled by the insurer or service
441 agreement company, the return of premium must not be less than
442 100 percent of the paid unearned pro rata premium, less any
443 claims paid on the agreement. If, after 60 days, the service
444 agreement is canceled by the service agreement holder, the
445 insurer or service agreement company shall return directly to
446 the agreement holder not less than 90 percent of the unearned
447 pro rata premium, less any claims paid on the agreement. The
448 service agreement company remains responsible for full refunds
449 to the consumer on canceled service agreements. However, the
450 salesperson and agent are responsible for the refund of the
451 unearned pro rata commission. A service agreement company may
452 effectuate refunds through the issuing salesperson or agent.

453 (4)~~(6)~~ If the service agreement is canceled, pursuant to an
454 order of liquidation, the salesperson or agent is responsible
455 for refunding, and must refund, to the receiver the unearned pro
456 rata commission.

457 (5)~~(7)~~ If a service agreement company violates any lawful
458 order of the office or fails to meet its contractual obligations
459 under this part, upon notice from the office, the sales
460 representative or agent must refund to the service agreement
461 holder the unearned pro rata commission, unless the sales
462 representative or agent has made other arrangements,
463 satisfactory to the office, with the service agreement holder.

464 (6)~~(8)~~ Each service agreement, which includes a copy of the

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465 application form, must be mailed or delivered to the agreement
466 holder within 45 days after the date of purchase.

467 ~~(7)-(9)~~ Each service agreement form must contain in
468 conspicuous, boldfaced type any statement or clause that places
469 restrictions or limitations on the benefits offered or disclose
470 such restrictions or limitations in regular type in a section of
471 the service agreement containing a conspicuous, boldfaced type
472 heading.

473 ~~(8)-(10)~~ If an insurer or service agreement company intends
474 to use or require the use of remanufactured or used replacement
475 parts, each service agreement form as well as all service
476 agreement brochures must contain in conspicuous, boldfaced type
477 a statement to that effect.

478 ~~(9)-(11)~~ Each service agreement form as well as all service
479 agreement company sales brochures must clearly identify the
480 name, address, and Florida license number of the licensed
481 insurer or service agreement company.

482 ~~(10)-(12)~~ If a service agreement contains a rental car
483 provision, it must disclose the terms and conditions of this
484 benefit in conspicuous, boldfaced type or disclose such
485 restrictions or limitations in regular type in a section of the
486 service agreement containing a conspicuous, boldfaced type
487 heading.

488 Section 7. Section 634.1213, Florida Statutes, is amended
489 to read:

490 634.1213 Noncompliant forms ~~Grounds for disapproval.~~—The
491 office may order a service agreement company to stop using
492 ~~disapprove~~ any service agreement form that ~~or service agreement~~
493 ~~company sales brochures filed under s. 634.121, or withdraw any~~

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494 ~~previous approval thereof, if the form or brochure:~~

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

498 (2) Contains or incorporates by reference when such
499 incorporation is otherwise permissible, any inconsistent,
500 ambiguous, or misleading clauses, or exceptions and conditions
501 which deceptively affect the risk purported to be assumed in the
502 general coverage of the service agreement.

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

505 (4) Is printed or otherwise reproduced in such manner as to
506 render any material provision of the form substantially
507 illegible.

508 (5) Contains any provision which is unfair or inequitable
509 or which encourages misrepresentation.

510 (6) Contains any provision which makes it difficult to
511 determine the actual insurer or service agreement company
512 issuing the form.

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

515 Section 8. Subsection (1) of section 634.137, Florida
516 Statutes, is amended to read:

517 634.137 Financial and statistical reporting requirements.-

518 (1) Each service agreement company shall, by March 1 of
519 each year, submit to the office annual financial reports on
520 forms prescribed by the commission and furnished by the office.
521 ~~as follows:~~

522 ~~(a) Reports for a period ending December 31 are due by~~

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523 ~~March 1.~~524 ~~(b) Reports for a period ending March 31 are due by May 15.~~525 ~~(c) Reports for a period ending June 30 are due by August~~
526 ~~15.~~527 ~~(d) Reports for a period ending September 30 are due by~~
528 ~~November 15.~~529 Section 9. Section 634.141, Florida Statutes, is amended to
530 read:

531 634.141 Examination of companies.—

532 (1) Motor vehicle service agreement companies licensed
533 under this part may shall be subject to periodic examination by
534 the office in the same manner and subject to the same terms and
535 conditions as applies to insurers under part II of chapter 624.
536 The commission may by rule establish provisions whereby a
537 company may be exempted from examination.538 (2) The office shall determine whether to conduct an
539 examination of a company by considering:540 (a) The amount of time that the company has been
541 continuously licensed and operating under the same management
542 and control;543 (b) The company's history of compliance with applicable
544 law;545 (c) The number of consumer complaints against the company;
546 and547 (d) The financial condition of the company, demonstrated by
548 the financial reports submitted pursuant to s. 634.137.549 Section 10. Paragraph (b) of subsection (1) of section
550 634.1815, Florida Statutes, is amended to read:

551 634.1815 Rebating; when allowed.—

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

554 (b) The rebate shall be in accordance with a rebating
555 schedule filed with and approved by the ~~salesperson with the~~
556 service agreement company issuing the service agreement to which
557 the rebate applies. The service agreement company shall maintain
558 a copy of all rebating schedules for a period of 3 years.

559 Section 11. Subsection (13) of section 634.282, Florida
560 Statutes, is amended, and subsection (17) is added to that
561 section, to read:

562 634.282 Unfair methods of competition and unfair or
563 deceptive acts or practices defined.—The following methods,
564 acts, or practices are defined as unfair methods of competition
565 and unfair or deceptive acts or practices:

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

568 (a) Knowingly collecting any sum as a premium or charge for
569 a motor vehicle service agreement, which is not then provided,
570 or is not in due course to be provided, subject to acceptance of
571 the risk by a service agreement company or an insurer, by a
572 motor vehicle service agreement issued by a service agreement
573 company or an insurer as permitted by this part.

574 (b) Knowingly collecting as a premium or charge for a motor
575 vehicle service agreement any sum in excess of or less than the
576 premium or charge applicable to such motor vehicle service
577 agreement, ~~in accordance with the applicable classifications and~~
578 ~~rates as filed with the office,~~ and as specified in the motor
579 vehicle service agreement. However, there is no violation of
580 this subsection if excess premiums or charges are refunded to

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581 the service agreement holder within 45 days after receipt of the
582 agreement by the service agreement company or if the licensed
583 sales representative's commission is reduced by the amount of
584 any premium undercharge.

585 (17) FAILURE TO PROVIDE TERMS AND CONDITIONS PRIOR TO
586 SALE.—

587 (a) Failing to provide a consumer with a complete sample
588 copy of the terms and conditions of the service agreement prior
589 to the time of sale upon a request for the same by the consumer.

590 (b) A service agreement company may comply with this
591 provision by providing the consumer with a sample copy of the
592 terms and conditions of the service agreement or by directing
593 the consumer to a website that displays a complete sample of the
594 terms and conditions of the service agreement.

595
596 No provision of this section shall be deemed to prohibit a
597 service agreement company or a licensed insurer from giving to
598 service agreement holders, prospective service agreement
599 holders, and others for the purpose of advertising, any article
600 of merchandise having a value of not more than \$25.

601 Section 12. Section 634.301, Florida Statutes, as amended
602 by section 1 of chapter 2007-235, Laws of Florida, is amended to
603 read:

604 634.301 Definitions.—As used in this part, the term:

605 (1) "Gross written premiums" means the total amount of
606 premiums, paid for the entire period of the home warranty,
607 inclusive of commissions, for which the association is obligated
608 under home warranties issued.

609 ~~(2) "Home improvement" means major remodeling, enclosure of~~

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610 ~~a garage, addition of a room, addition of a pool, and other like~~
611 ~~items that add value to the residential property. The term does~~
612 ~~not include normal maintenance for items such as painting,~~
613 ~~reroofing, and other like items subject to normal wear and tear.~~

614 (2)~~(3)~~ "Home warranty" or "warranty" means any contract or
615 agreement;

616 ~~(a) Offered in connection with the sale of residential~~
617 ~~property;~~

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

622 ~~(c) Offered in connection with a home improvement of \$7,500~~
623 ~~or more for residential property that is the subject of the~~
624 ~~warranty, but not in connection with the sale of such property;~~
625 ~~or~~

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

629
630 whereby a person undertakes to indemnify the warranty holder
631 against the cost of repair or replacement, or actually furnishes
632 repair or replacement, of any structural component or appliance
633 of a home, necessitated by wear and tear or an inherent defect
634 of any such structural component or appliance or necessitated by
635 the failure of an inspection to detect the likelihood of any
636 such loss. However, this part does not prohibit the giving of
637 usual performance guarantees by either the builder of a home or
638 the manufacturer or seller of an appliance, as long as no

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639 identifiable charge is made for such guarantee. This part does
640 not permit the provision of indemnification against
641 consequential damages arising from the failure of any structural
642 component or appliance of a home, which practice constitutes the
643 transaction of insurance subject to all requirements of the
644 insurance code. This part does not apply to service contracts
645 entered into between consumers and nonprofit organizations or
646 cooperatives the members of which consist of condominium
647 associations and condominium owners and which perform repairs
648 and maintenance for appliances or maintenance of the residential
649 property. This part does not apply to a contract or agreement
650 offered ~~in connection with a sale of residential property~~ by a
651 warranty association in compliance with part III, provided such
652 contract or agreement only relates to the systems and appliances
653 of the covered residential property and does not cover any
654 structural component of the residential property.

655 (3)~~(4)~~ "Home warranty association" means any corporation or
656 any other organization, other than an authorized insurer,
657 issuing home warranties.

658 (4)~~(5)~~ "Impaired" means having liabilities in excess of
659 assets.

660 (5)~~(6)~~ "Insolvent" means the inability of a corporation to
661 pay its debts as they become due in the usual course of its
662 business.

663 (6)~~(7)~~ "Insurance code" means the Florida Insurance Code.

664 (7)~~(8)~~ "Insurer" means any property or casualty insurer
665 duly authorized to transact such business in this state.

666 (8)~~(9)~~ "Listing period" means the period of time
667 residential property is listed for sale with a licensed real

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668 estate broker, beginning on the date the residence is first
669 listed for sale and ending on either the date the sale of the
670 residence is closed, the date the residence is taken off the
671 market, or the date the listing contract with the real estate
672 broker expires.

673 (9)~~(10)~~ "Net assets" means the amount by which the total
674 statutory assets of an association exceed the total liabilities
675 of the association.

676 (10)~~(11)~~ "Person" includes an individual, company,
677 corporation, association, insurer, agent, and every other legal
678 entity.

679 (11)~~(12)~~ "Premium" means the total consideration received,
680 or to be received, by an insurer or home warranty association
681 for or related to the issuance and delivery of any binder or
682 warranty, including any charges designated as assessments or
683 fees for policies, surveys, inspections, or service or any other
684 charges.

685 (12)~~(13)~~ "Sales representative" means any person with whom
686 an insurer or home inspection or warranty association has a
687 contract and who is utilized by such insurer or association for
688 the purpose of selling or issuing home warranties. The term
689 includes all employees of an insurer or association engaged
690 directly in the sale or issuance of home warranties.

691 (13)~~(14)~~ "Structural component" means the roof, plumbing
692 system, electrical system, foundation, basement, walls,
693 ceilings, or floors of a home.

694 Section 13. Subsection (4) is added to section 634.303,
695 Florida Statutes, to read:

696 634.303 License required.—

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697 (4) Any person who provides, offers to provide, or holds
698 oneself out as providing or offering to provide home warranties
699 in this state or from this state without holding a subsisting
700 license commits, in addition to any other violation, a
701 misdemeanor of the first degree, punishable as provided in s.
702 775.082 or s. 775.083.

703 Section 14. Paragraph (f) of subsection (2) of section
704 634.308, Florida Statutes, is amended to read:

705 634.308 Grounds for suspension or revocation of license.—

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

709 (f) Has issued warranty contracts which renewal contracts
710 provide that the cost of renewal exceeds the then-current cost
711 for new warranty contracts, unless the increase is supported by
712 the claims history or claims cost data, or impose a fee for
713 inspection of the premises.

714 Section 15. Section 634.312, Florida Statutes, is amended
715 to read:

716 634.312 Forms; required provisions and procedures Filing;
717 ~~approval of forms.—~~

718 ~~(1) No warranty form or related form shall be issued or~~
719 ~~used in this state unless it has been filed with and approved by~~
720 ~~the office. Also upon application for a license, the office~~
721 ~~shall require the applicant to submit for approval each~~
722 ~~brochure, pamphlet, circular, form letter, advertisement, or~~
723 ~~other sales literature or advertising communication addressed or~~
724 ~~intended for distribution. Approval of the application~~
725 ~~constitutes approval of such documents, unless the applicant has~~

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726 ~~consented otherwise in writing. The office shall disapprove any~~
727 ~~document which is untrue, deceptive, or misleading or which~~
728 ~~contains misrepresentations or omissions of material facts.~~

729 ~~(a) After an application has been approved, a licensee is~~
730 ~~not required to submit brochures or advertisement to the office~~
731 ~~for approval; however, a licensee may not have published, and a~~
732 ~~person may not publish, any brochure or advertisement which is~~
733 ~~untrue, deceptive, or misleading or which contains~~
734 ~~misrepresentations or omissions of material fact.~~

735 ~~(b) For purposes of this section, brochures and advertising~~
736 ~~includes, but is not limited to, any report, circular, public~~
737 ~~announcement, certificate, or other printed matter or~~
738 ~~advertising material which is designed or used to solicit or~~
739 ~~induce any persons to enter into any home warranty agreement.~~

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

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

747 (1)~~(4)~~ All home warranty contracts are assignable in a
748 consumer transaction and must contain a statement informing the
749 purchaser of the home warranty of her or his right to assign it,
750 at least within 15 days from the date the home is sold or
751 transferred, to a subsequent retail purchaser of the home
752 covered by the home warranty and all conditions on such right of
753 transfer. The home warranty company may charge an assignment fee
754 not to exceed \$40. Home warranty assignments include, but are

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755 not limited to, the assignment from a home builder who purchased
756 the home warranty to a subsequent home purchaser.

757 (2)~~(5)~~ Subject to the insurer's or home warranty
758 association's requirement as to payment of premium, every home
759 warranty shall be mailed or delivered to the warranty holder not
760 later than 45 days after the effectuation of coverage, and the
761 application is part of the warranty contract document.

762 (3)~~(6)~~ All home warranty contracts must state in
763 conspicuous, boldfaced type that the home warranty may not
764 provide listing period coverage free of charge.

765 (4)~~(7)~~ All home warranty contracts must disclose any
766 exclusions, restrictions, or limitations on the benefits offered
767 or the coverage provided by the home warranty contract in
768 boldfaced type, and must contain, in boldfaced type, a statement
769 on the front page of the contract substantially similar to the
770 following: "Certain items and events are not covered by this
771 contract. Please refer to the exclusions listed on page of
772 this document."

773 (5)~~(8)~~ Each home warranty contract shall contain a
774 cancellation provision. Any home warranty agreement may be
775 canceled by the purchaser within 10 days after purchase. The
776 refund must be 100 percent of the gross premium paid, less any
777 claims paid on the agreement. A reasonable administrative fee
778 may be charged, not to exceed 5 percent of the gross premium
779 paid by the warranty agreement holder. After the home warranty
780 agreement has been in effect for 10 days, if the contract is
781 canceled by the warranty holder, a return of premium shall be
782 based upon 90 percent of unearned pro rata premium less any
783 claims that have been paid. If the contract is canceled by the

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784 association for any reason other than for fraud or
785 misrepresentation, a return of premium shall be based upon 100
786 percent of unearned pro rata premium, less any claims paid on
787 the agreement.

788 Section 16. Section 634.3123, Florida Statutes, is amended
789 to read:

790 634.3123 Noncompliant ~~Grounds for disapproval of forms.~~—The
791 office may order a home warranty association to stop using any
792 contract shall disapprove any form that filed under s. 634.312
793 or withdraw any previous approval if the form:

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

795 (2) Contains or incorporates by reference, when such
796 incorporation is otherwise permissible, any inconsistent,
797 ambiguous, or misleading clauses or exceptions or conditions
798 which deceptively affect the risk purported to be assumed in the
799 general coverage of the contract.

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

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

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

808 Section 17. Section 634.314, Florida Statutes, is amended
809 to read:

810 634.314 Examination of associations.—

811 (1) Home warranty associations licensed under this part may
812 ~~shall~~ be subject to periodic examinations by the office, in the

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813 same manner and subject to the same terms and conditions as
814 apply to insurers under part II of chapter 624 of the insurance
815 code.

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

818 (a) The amount of time that the association has been
819 continuously licensed and operating under the same management
820 and control;

821 (b) The association's history of compliance with applicable
822 law;

823 (c) The number of consumer complaints against the
824 association; and

825 (d) The financial condition of the association,
826 demonstrated by the financial reports submitted pursuant to s.
827 634.313.

828 Section 18. Paragraph (b) of subsection (1) of section
829 634.3205, Florida Statutes, is amended to read:

830 634.3205 Rebating; when allowed.—

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

833 (b) The rebate shall be in accordance with a rebating
834 schedule filed with and approved by the ~~sales representative~~
835 ~~with the~~ home warranty association issuing the home warranty to
836 which the rebate applies. The home warranty association shall
837 maintain a copy of all rebating schedules for a period of 3
838 years.

839 Section 19. Subsection (8) of section 634.336, Florida
840 Statutes, is amended, and subsection (9) is added to that
841 section, to read:

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842 634.336 Unfair methods of competition and unfair or
843 deceptive acts or practices defined.—The following methods,
844 acts, or practices are defined as unfair methods of competition
845 and unfair or deceptive acts or practices:

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

848 (a) Requiring, as a condition precedent or condition
849 subsequent to the lending of the money or the extension of the
850 credit or any renewal thereof, that the person to whom such
851 credit is extended purchase a home warranty; or

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

853 (9) FAILURE TO PROVIDE TERMS AND CONDITIONS PRIOR TO SALE.—

854 (a) Failing to provide a consumer with a complete sample
855 copy of the terms and conditions of the home warranty contract
856 prior to the time of sale upon a request for the same by the
857 consumer.

858 (b) A home warranty association may comply with this
859 provision by providing the consumer with a sample copy of the
860 terms and conditions of the home warranty contract or by
861 directing the consumer to a website that displays a complete
862 sample of the terms and conditions of the contract.

863 Section 20. Section 634.344, Florida Statutes, is amended
864 to read:

865 634.344 Coercion of debtor prohibited.—

866 (1) When a home warranty is sold in connection with the
867 lending of money ~~as authorized by s. 634.301(3)(b)~~, a ~~no~~ person
868 may not require, as a condition precedent or condition
869 subsequent to the lending of the money or the extension of the
870 credit or any renewal thereof, that the person to whom such

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871 money or credit is extended purchase a home warranty.

872 (2) When a home warranty is purchased in connection with
873 the lending of money ~~as authorized by s. 634.301(3)(b)~~, the
874 insurer or home warranty association or the sales representative
875 of the insurer or home warranty association shall advise the
876 borrower or purchaser in writing that Florida law prohibits the
877 lender from requiring the purchase of a home warranty as a
878 condition precedent or condition subsequent to the making of the
879 loan.

880 Section 21. Subsection (5) of section 634.401, Florida
881 Statutes, is amended to read:

882 634.401 Definitions.—As used in this part, the term:

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

888 Section 22. Subsection (5) is added to section 634.403,
889 Florida Statutes, to read:

890 634.403 License required.—

891 (5) Any person who provides, offers to provide, or holds
892 oneself out as providing or offering to provide a service
893 warranty in this state or from this state without holding a
894 subsisting license commits, in addition to any other violation,
895 a misdemeanor of the first degree, punishable as provided in s.
896 775.082 or s. 775.083.

897 Section 23. Paragraph (e) of subsection (3) of section
898 634.406, Florida Statutes, is amended to read:

899 634.406 Financial requirements.—

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900 (3) An association will not be required to establish an
901 unearned premium reserve if it has purchased contractual
902 liability insurance which demonstrates to the satisfaction of
903 the office that 100 percent of its claim exposure is covered by
904 such policy. The contractual liability insurance shall be
905 obtained from an insurer that holds a certificate of authority
906 to do business within the state. For the purposes of this
907 subsection, the contractual liability policy shall contain the
908 following provisions:

909 (e) In the event the issuer of the contractual liability
910 policy is fulfilling the service warranty covered by policy and
911 in the event the service warranty holder cancels the service
912 warranty, it is the responsibility of the contractual liability
913 policy issuer to effectuate a full refund of unearned premium to
914 the consumer. This refund shall be subject to the cancellation
915 fee provisions of s. 634.414~~(3)~~. The salesperson or agent shall
916 refund to the contractual liability policy issuer the unearned
917 pro rata commission.

918 Section 24. Section 634.414, Florida Statutes, is amended
919 to read:

920 634.414 Cancelation provisions required ~~Filing; approval of~~
921 ~~forms.-~~

922 ~~(1) No service warranty form or related form shall be~~
923 ~~issued or used in this state unless it has been filed with and~~
924 ~~approved by the office. Upon application for a license, the~~
925 ~~office shall require the applicant to submit for approval each~~
926 ~~brochure, pamphlet, circular, form letter, advertisement, or~~
927 ~~other sales literature or advertising communication addressed or~~
928 ~~intended for distribution. The office shall disapprove any~~

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929 ~~document which is untrue, deceptive, or misleading or which~~
930 ~~contains misrepresentations or omissions of material facts.~~

931 ~~(a) After an application has been approved, a licensee is~~
932 ~~not required to submit brochures or advertisement to the office~~
933 ~~for approval; however, a licensee may not have published, and a~~
934 ~~person may not publish, any brochure or advertisement which is~~
935 ~~untrue, deceptive, or misleading or which contains~~
936 ~~misrepresentations or omissions of material fact.~~

937 ~~(b) For purposes of this section, brochures and advertising~~
938 ~~includes, but is not limited to, any report, circular, public~~
939 ~~announcement, certificate, or other printed matter or~~
940 ~~advertising material which is designed or used to solicit or~~
941 ~~induce any persons to enter into any service warranty agreement.~~

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

947 ~~(3) Each service warranty contract shall contain a~~
948 ~~cancellation provision. If ~~In the event~~ the contract is canceled~~
949 ~~by the warranty holder, return of premium shall be based upon no~~
950 ~~less than 90 percent of unearned pro rata premium less any~~
951 ~~claims that have been paid or less the cost of repairs made on~~
952 ~~behalf of the warranty holder. If ~~In the event~~ the contract is~~
953 ~~canceled by the association, return of premium shall be based~~
954 ~~upon 100 percent of unearned pro rata premium, less any claims~~
955 ~~paid or the cost of repairs made on behalf of the warranty~~
956 ~~holder.~~

957 ~~(4) The name of the service warranty association issuing~~

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958 ~~the contract must be more prominent than any other company name~~
959 ~~or program name on the service warranty form or sales brochure.~~

960 Section 25. Section 634.4145, Florida Statutes, is amended
961 to read:

962 634.4145 Noncompliant ~~Grounds for disapproval of forms.~~—The
963 office may order a service warranty association to stop using
964 any contract shall disapprove any form that filed under s.
965 ~~634.414 if the form:~~

966 (1) Violates this part;

967 (2) Is misleading in any respect;

968 (3) Is reproduced so that any material provision is
969 substantially illegible; or

970 (4) Contains provisions which are unfair or inequitable or
971 which encourage misrepresentation.

972 Section 26. Section 634.415, Florida Statutes, is amended
973 to read:

974 634.415 Tax on premiums; annual statement; reports;
975 ~~quarterly statements.~~—

976 (1) In addition to the license fees provided in this part
977 for service warranty associations and license taxes as provided
978 in the insurance code as to insurers, each such association and
979 insurer shall, annually on or before March 1, file with the
980 office its annual statement, in the form prescribed by the
981 commission, showing all premiums or assessments received by it
982 in connection with the issuance of service warranties in this
983 state during the preceding calendar year and using accounting
984 principles which will enable the office to ascertain whether the
985 financial requirements set forth in s. 634.406 have been
986 satisfied.

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

989 (3) The office may levy a fine of up to \$100 a day for each
990 day an association neglects to file the annual statement in the
991 form and within the time provided by this part. The amount of
992 the fine shall be established by rules adopted by the
993 commission. The office shall deposit all sums collected by it
994 under this section to the credit of the Insurance Regulatory
995 Trust Fund.

996 ~~(4) In addition to an annual statement, the office may~~
997 ~~require of licensees, under oath and in the form prescribed by~~
998 ~~it, quarterly statements or special reports which it deems~~
999 ~~necessary to the proper supervision of licensees under this~~
1000 ~~part. For manufacturers as defined in s. 634.401, the office~~
1001 ~~shall require only the annual audited financial statements of~~
1002 ~~the warranty operations and corporate reports as filed by the~~
1003 ~~manufacturer with the Securities and Exchange Commission,~~
1004 ~~provided that the office may require additional reporting by~~
1005 ~~manufacturers upon a showing by the office that annual reporting~~
1006 ~~is insufficient to protect the interest of purchasers of service~~
1007 ~~warranty agreements in this state or fails to provide sufficient~~
1008 ~~proof of the financial status required by this part.~~

1009 (4)~~(5)~~ The office may suspend or revoke the license of a
1010 service warranty association failing to file its annual
1011 statement ~~or quarterly report~~ when due.

1012 (5)~~(6)~~ The commission may by rule require each service
1013 warranty association to submit to the office, as the commission
1014 may designate, all or part of the information contained in the
1015 financial statements and reports required by this section in a

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1016 computer-readable form compatible with the electronic data
1017 processing system specified by the office.

1018 Section 27. Section 634.416, Florida Statutes, is amended
1019 to read:

1020 634.416 Examination of associations.—

1021 (1) (a) Service warranty associations licensed under this
1022 part may be ~~are~~ subject to periodic examination by the office,
1023 in the same manner and subject to the same terms and conditions
1024 that apply to insurers under part II of chapter 624.

1025 (b) The office shall determine whether to conduct an
1026 examination of a service warranty association by considering:

1027 1. The amount of time that the association has been
1028 continuously licensed and operating under the same management
1029 and control;

1030 2. The association's history of compliance with applicable
1031 law;

1032 3. The number of consumer complaints against the
1033 association; and

1034 4. The financial condition of the association, demonstrated
1035 by the financial reports submitted pursuant to s. 634.313.

1036 (2) ~~However,~~ The rate charged a service warranty
1037 association by the office for examination may be adjusted to
1038 reflect the amount collected for the Form 10-K filing fee as
1039 provided in this section.

1040 (3) On or before May 1 of each year, an association may
1041 submit to the office the Form 10-K, as filed with the United
1042 States Securities and Exchange Commission pursuant to the
1043 Securities Exchange Act of 1934, as amended. Upon receipt and
1044 review of the most current Form 10-K, the office may waive the

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1045 examination requirement; if the office determines not to waive
1046 the examination, such examination will be limited to that
1047 examination necessary to ensure compliance with this part. The
1048 Form 10-K shall be accompanied by a filing fee of \$2,000 to be
1049 deposited into the Insurance Regulatory Trust Fund.

1050 (4)~~(2)~~ The office is not required to examine an association
1051 that has less than \$20,000 in gross written premiums as
1052 reflected in its most recent annual statement. The office may
1053 examine such an association if it has reason to believe that the
1054 association may be in violation of this part or is otherwise in
1055 an unsound financial condition. If the office examines an
1056 association that has less than \$20,000 in gross written
1057 premiums, the examination fee may not exceed 5 percent of the
1058 gross written premiums of the association.

1059 Section 28. Paragraph (b) of subsection (1) of section
1060 634.4225, Florida Statutes, is amended to read:

1061 634.4225 Rebating; when allowed.—

1062 (1) No sales representative shall rebate any portion of his
1063 or her commission except as follows:

1064 (b) The rebate shall be in accordance with a rebating
1065 schedule filed with and approved by the ~~sales representative~~
1066 ~~with the~~ association issuing the service warranty to which the
1067 rebate applies. The association shall maintain a copy of all
1068 rebating schedules for a period of 3 years.

1069 Section 29. Subsection (9) is added to section 634.436,
1070 Florida Statutes, to read:

1071 634.436 Unfair methods of competition and unfair or
1072 deceptive acts or practices defined.—The following methods,
1073 acts, or practices are defined as unfair methods of competition

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1074 and unfair or deceptive acts or practices:

1075 (9) FAILURE TO PROVIDE TERMS AND CONDITIONS PRIOR TO SALE.-

1076 (a) Failing to provide a consumer with a complete sample
1077 copy of the terms and conditions of the service warranty prior
1078 to the time of sale upon a request for the same by the consumer.

1079 (b) A service warranty association may comply with this
1080 provision by providing the consumer with a sample copy of the
1081 terms and conditions of the warranty contract or by directing
1082 the consumer to a website that displays a complete sample of the
1083 terms and conditions of the contract.

1084 Section 30. Section 634.1216, Florida Statutes, is
1085 repealed.

1086 Section 31. Subsections (2) and (3) of section 634.136,
1087 Florida Statutes, are repealed.

1088 Section 32. Section 634.3126, Florida Statutes, is
1089 repealed.

1090 Section 33. Subsection (4) of section 634.313, Florida
1091 Statutes, is repealed.

1092 Section 34. This act shall take effect July 1, 2010.