

By the Committee on Banking and Insurance; and Senator Truenow

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1 A bill to be entitled

2 An act relating to warranty associations; amending s.  
3 634.3077, F.S.; making technical changes; amending s.  
4 634.406, F.S.; revising the circumstances under which  
5 certain service warranty associations are not required  
6 to establish unearned premium reserves or to maintain  
7 contractual liability insurance and are authorized to  
8 allow their premiums to exceed specified ratios;  
9 amending s. 634.414, F.S.; requiring that contracts  
10 that include coverage for accidental damage from  
11 handling be covered by a specified policy; providing  
12 an exception; providing an effective date.

13  
14 Be It Enacted by the Legislature of the State of Florida:

15  
16 Section 1. Subsection (3) of section 634.3077, Florida  
17 Statutes, is amended to read:

18 634.3077 Financial requirements.—

19 (3) An association may not be required to set up an  
20 unearned premium reserve if it has purchased contractual  
21 liability insurance which demonstrates to the satisfaction of  
22 the office that 100 percent of its claim exposure is covered by  
23 such insurance. Such contractual liability insurance must ~~shall~~  
24 be obtained from an insurer or insurers that hold a certificate  
25 of authority to do business within this ~~the~~ state or from an  
26 insurer or insurers approved by the office as financially  
27 capable of meeting the obligations incurred pursuant to the  
28 policy or policies. For purposes of this subsection, the  
29 contractual liability policy or policies must ~~shall~~ contain the

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30 following provisions:

31 (a) In the event that the home warranty association is  
32 unable to fulfill its obligation under its contracts issued in  
33 this state for any reason, including insolvency, bankruptcy, or  
34 dissolution, the contractual liability insurer or insurers will  
35 pay losses and unearned premiums under such plans directly to  
36 persons making claims under such contracts.

37 (b) The insurer or insurers issuing the policy or policies  
38 shall assume full responsibility for the administration of  
39 claims in the event of the inability of the association to do  
40 so.

41 (c) The policy or policies may not be canceled or not  
42 renewed by the insurer or insurers or the association unless 60  
43 days' written notice thereof has been given to the office by the  
44 insurer or insurers before the date of such cancellation or  
45 nonrenewal.

46 (d) The contractual liability insurance policy or policies  
47 must ~~shall~~ insure all home warranty contracts that were issued  
48 while the policy or policies were ~~was~~ in effect regardless of  
49 whether ~~or not~~ the premium has been remitted to the insurer or  
50 insurers.

51 Section 2. Subsections (3) and (4), paragraphs (b) and (c)  
52 of subsection (6), and paragraph (a) of subsection (7) of  
53 section 634.406, Florida Statutes, are amended to read:

54 634.406 Financial requirements.—

55 (3) An association will not be required to establish an  
56 unearned premium reserve if it has purchased contractual  
57 liability insurance which demonstrates to the satisfaction of  
58 the office that 100 percent of its claim exposure is covered by

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59 such policy or policies. The contractual liability insurance  
60 ~~must shall~~ be obtained from an insurer or insurers that hold  
61 ~~holds~~ a certificate of authority to do business within the  
62 state. For the purposes of this subsection, the contractual  
63 liability policy or policies must shall contain the following  
64 provisions:

65 (a) In the event that the service warranty association does  
66 not fulfill its obligation under contracts issued in this state  
67 for any reason, including insolvency, bankruptcy, or  
68 dissolution, the contractual liability insurer or insurers will  
69 pay losses and unearned premium refunds under such plans  
70 directly to the person making a claim under the contract.

71 (b) The insurer or insurers issuing the contractual  
72 liability policy or policies shall assume full responsibility  
73 for the administration of claims in the event of the inability  
74 of the association to do so.

75 (c) The policy or policies may not be canceled or not  
76 renewed by either the insurer or insurers or the association  
77 unless 60 days' written notice thereof has been given to the  
78 office by the insurer or insurers before the date of such  
79 cancellation or nonrenewal.

80 (d) The contractual liability insurance policy or policies  
81 ~~must shall~~ insure all service warranty contracts which were  
82 issued while the policy or policies were ~~was~~ in effect  
83 regardless of whether or not the premium has been remitted to  
84 the insurer or insurers.

85 (e) In the event the issuer or issuers of the contractual  
86 liability policy or policies are ~~is~~ fulfilling the service  
87 warranty covered by policy or policies and in the event the

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88 service warranty holder cancels the service warranty, it is the  
 89 responsibility of the contractual liability policy issuer or  
 90 issuers to effectuate a full refund of unearned premium to the  
 91 consumer. This refund is ~~shall be~~ subject to the cancellation  
 92 fee provisions of s. 634.414. The salesperson or agent shall  
 93 refund to the contractual liability policy issuer or issuers the  
 94 unearned pro rata commission.

95 (f) An association may not use ~~utilize~~ both the unearned  
 96 premium reserve and contractual liability insurance  
 97 simultaneously. However, an association is ~~shall be~~ allowed to  
 98 have contractual liability coverage on service warranties  
 99 previously sold and sell new service warranties covered by the  
 100 unearned premium reserve, and the converse of this is ~~shall~~ also  
 101 ~~be~~ allowed. An association must be able to distinguish how each  
 102 individual service warranty is covered.

103 (4) No warrantor may allow its gross written premiums in  
 104 force to exceed a 7-to-1 ratio to net assets; however, a company  
 105 may exceed this requirement if:

106 (a) The company:

107 1. ~~(a)~~ Holds licenses issued pursuant to the provisions of  
 108 part I and this part; ~~and~~

109 2. ~~(b)~~ Maintains net assets of at least \$2.5 million; ~~and~~

110 3. ~~(c)~~ Uses ~~Utilizes~~ contractual liability insurance which  
 111 reimburses the service warranty association for 100 percent of  
 112 its paid claims; ~~and~~

113 (b) ~~(d)~~ The insurer or insurers issuing the contractual  
 114 liability insurance policy or policies maintain ~~maintains~~ a  
 115 policyholder surplus of at least \$100 million and are ~~is~~ rated  
 116 "A" or higher by A.M. Best Company.

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117 (6) An association that holds a license under this part may  
118 allow its premiums for service warranties written under this  
119 part to exceed the ratio to net assets limitations of this  
120 section if the association meets all of the following:

121 (b) Uses a contractual liability insurance policy or  
122 policies approved by the office that:

123 1. Reimburse ~~Reimburses~~ the service warranty association  
124 for 100 percent of their ~~its~~ claims liability and are ~~is~~ issued  
125 by an insurer or insurers that maintain ~~maintains~~ a policyholder  
126 surplus of at least \$100 million; or

127 2. Comply ~~Complies~~ with subsection (3) and are ~~is~~ issued by  
128 an insurer or insurers that maintain ~~maintains~~ a policyholder  
129 surplus of at least \$200 million.

130 (c) The insurer or insurers issuing the contractual  
131 liability insurance policy or policies:

132 1. Are ~~Is~~ rated "A" or higher by A.M. Best Company or an  
133 equivalent rating by another national rating service acceptable  
134 to the office.

135 2. In conjunction with the warranty association's filing of  
136 the quarterly and annual reports, provide ~~provides~~, on a form  
137 prescribed by the commission, a statement certifying the gross  
138 written premiums in force reported by the warranty association  
139 and a statement that all of the warranty association's gross  
140 written premium in force is covered under the contractual  
141 liability policy or policies, regardless of whether it has been  
142 reported.

143 (7) An association licensed under this part and holding no  
144 other license under part I or part II of this chapter is not  
145 required to establish an unearned premium reserve or maintain

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146 contractual liability insurance and may allow its premiums to  
147 exceed the ratio to net assets limitation of this section if the  
148 association complies with the following:

149 (a) The association or, if the association is a direct or  
150 indirect wholly owned subsidiary of a parent corporation, its  
151 parent corporation has, and maintains at all times, a minimum  
152 net worth of at least \$100 million and provides the office with  
153 one of the following:

154 1. A copy of the association's annual audited financial  
155 statements or the audited consolidated financial statements of  
156 the association's parent corporation, prepared by an independent  
157 certified public accountant in accordance with generally  
158 accepted accounting principles, which clearly demonstrate the  
159 net worth of the association or its parent corporation to be  
160 \$100 million and a quarterly written certification to the office  
161 that such entity continues to maintain the net worth required  
162 under this paragraph.

163 2. The association's, or its parent corporation's, Form 10-  
164 K, Form 10-Q, or Form 20-F as filed with the United States  
165 Securities and Exchange Commission or such other documents  
166 required to be filed with a recognized stock exchange, which  
167 shall be provided on a quarterly and annual basis within 10 days  
168 after the last date each such report must be filed with the  
169 Securities and Exchange Commission, the National Association of  
170 Security Dealers Automated Quotation system, or other recognized  
171 stock exchange.

172

173 Failure to timely file the documents required under this  
174 paragraph may, at the discretion of the office, subject the

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175 association to suspension or revocation of its license under  
176 this part.

177 Section 3. Subsection (5) is added to section 634.414,  
178 Florida Statutes, to read:

179 634.414 Forms; required provisions.—

180 (5) All contracts that include coverage for accidental  
181 damage from handling must be covered by the contractual  
182 liability policy specified in s. 634.406(3), unless such  
183 coverage is issued by an association not required to establish  
184 an unearned premium reserve or maintain contractual liability  
185 insurance under s. 634.406(7).

186 Section 4. This act shall take effect July 1, 2025.