

By the Committees on Rules; and 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.; revising the requirements of
4 contractual liability insurance policies; amending s.
5 634.406, F.S.; revising the requirements of
6 contractual liability insurance policies; revising the
7 circumstances under which certain service warranty
8 associations are not required to establish unearned
9 premium reserves or to maintain contractual liability
10 insurance and are authorized to allow their premiums
11 to exceed specified ratios; amending s. 634.414, F.S.;
12 requiring that contracts that include coverage for
13 accidental damage from handling be covered by a
14 specified policy; providing an exception; providing an
15 effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. Subsection (3) of section 634.3077, Florida
20 Statutes, is amended to read:

21 634.3077 Financial requirements.—

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

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30 capable of meeting the obligations incurred pursuant to the
31 policy or policies. For purposes of this subsection, the
32 contractual liability policy or policies must ~~shall~~ contain the
33 following provisions:

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

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

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

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

54 (e) The contractual liability insurance policy or policies
55 must either pay 100 percent of claims as they are incurred or
56 pay 100 percent of claims due in the event of the association's
57 failure to pay claims when due.

58 Section 2. Subsections (3) and (4), paragraphs (b) and (c)

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59 of subsection (6), and paragraph (a) of subsection (7) of
60 section 634.406, Florida Statutes, are amended to read:

61 634.406 Financial requirements.—

62 (3) An association will not be required to establish an
63 unearned premium reserve if it has purchased contractual
64 liability insurance which demonstrates to the satisfaction of
65 the office that 100 percent of its claim exposure is covered by
66 such policy or policies. The contractual liability insurance
67 must ~~shall~~ be obtained from an insurer or insurers that hold
68 ~~holds~~ a certificate of authority to do business within the
69 state. For the purposes of this subsection, the contractual
70 liability policy or policies must ~~shall~~ contain the following
71 provisions:

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

78 (b) The insurer or insurers issuing the contractual
79 liability policy or policies shall assume full responsibility
80 for the administration of claims in the event of the inability
81 of the association to do so.

82 (c) The policy or policies may not be canceled or not
83 renewed by either the insurer or insurers or the association
84 unless 60 days' written notice thereof has been given to the
85 office by the insurer or insurers before the date of such
86 cancellation or nonrenewal.

87 (d) The contractual liability insurance policy or policies

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88 must ~~shall~~ insure all service warranty contracts which were
89 issued while the policy or policies were ~~was~~ in effect
90 regardless of whether ~~or not~~ the premium has been remitted to
91 the insurer or insurers.

92 (e) In the event the issuer or issuers of the contractual
93 liability policy or policies are ~~is~~ fulfilling the service
94 warranty covered by policy or policies and in the event the
95 service warranty holder cancels the service warranty, it is the
96 responsibility of the contractual liability policy issuer or
97 issuers to effectuate a full refund of unearned premium to the
98 consumer. This refund is ~~shall be~~ subject to the cancellation
99 fee provisions of s. 634.414. The salesperson or agent shall
100 refund to the contractual liability policy issuer or issuers the
101 unearned pro rata commission.

102 (f) An association may not use ~~utilize~~ both the unearned
103 premium reserve and contractual liability insurance
104 simultaneously. However, an association is ~~shall be~~ allowed to
105 have contractual liability coverage on service warranties
106 previously sold and sell new service warranties covered by the
107 unearned premium reserve, and the converse of this is ~~shall~~ also
108 ~~be~~ allowed. An association must be able to distinguish how each
109 individual service warranty is covered.

110 (g) The contractual liability insurance policy or policies
111 must either pay 100 percent of claims as they are incurred or
112 pay 100 percent of claims due in the event of the association's
113 failure to pay claims when due.

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

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117 (a) The company:

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

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

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

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

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

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

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

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

141 (c) The insurer or insurers issuing the contractual
142 liability insurance policy or policies:

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

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146 2. In conjunction with the warranty association's filing of
147 the quarterly and annual reports, provide ~~provides~~, on a form
148 prescribed by the commission, a statement certifying the gross
149 written premiums in force reported by the warranty association
150 and a statement that all of the warranty association's gross
151 written premium in force is covered under the contractual
152 liability policy or policies, regardless of whether it has been
153 reported.

154 (7) An association licensed under this part and holding no
155 other license under part I or part II of this chapter is not
156 required to establish an unearned premium reserve or maintain
157 contractual liability insurance and may allow its premiums to
158 exceed the ratio to net assets limitation of this section if the
159 association complies with the following:

160 (a) The association or, if the association is a direct or
161 indirect wholly owned subsidiary of a parent corporation, its
162 parent corporation has, and maintains at all times, a minimum
163 net worth of at least \$100 million and provides the office with
164 one of the following:

165 1. A copy of the association's annual audited financial
166 statements or the audited consolidated financial statements of
167 the association's parent corporation, prepared by an independent
168 certified public accountant in accordance with generally
169 accepted accounting principles, which clearly demonstrate the
170 net worth of the association or its parent corporation to be
171 \$100 million and a quarterly written certification to the office
172 that such entity continues to maintain the net worth required
173 under this paragraph.

174 2. The association's, or its parent corporation's, Form 10-

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175 K, Form 10-Q, or Form 20-F as filed with the United States
176 Securities and Exchange Commission or such other documents
177 required to be filed with a recognized stock exchange, which
178 shall be provided on a quarterly and annual basis within 10 days
179 after the last date each such report must be filed with the
180 Securities and Exchange Commission, the National Association of
181 Security Dealers Automated Quotation system, or other recognized
182 stock exchange.

183

184 Failure to timely file the documents required under this
185 paragraph may, at the discretion of the office, subject the
186 association to suspension or revocation of its license under
187 this part.

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

190 634.414 Forms; required provisions.—

191 (5) All contracts that include coverage for accidental
192 damage from handling must be covered by the contractual
193 liability insurance policy or policies specified in s.
194 634.406(3), unless such coverage is issued by an association not
195 required to establish an unearned premium reserve or maintain
196 contractual liability insurance under s. 634.406(7).

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