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1
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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capable of meeting the obligations incurred pursuant to the policy or policies. For purposes of this subsection, the contractual liability policy or policies must ~~shall~~ contain the following provisions:

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

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

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

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

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

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

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

634.406 Financial requirements.—

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

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

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

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

(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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(a) The company:

1.~~(a)~~ Holds licenses issued pursuant to the provisions of part I and this part;~~;~~7 and

2.~~(b)~~ Maintains net assets of at least \$2.5 million;~~;~~7 and

3.~~(c)~~ Uses ~~Utilizes~~ contractual liability insurance which reimburses the service warranty association for 100 percent of its paid claims;~~;~~7 and

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

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

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

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

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

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

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

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

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

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

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

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.