

1 A bill to be entitled
 2 An act relating to home and service warranty
 3 association financial requirements; amending s.
 4 634.3077, F.S.; revising the circumstances under which
 5 home warranty associations are not required to set up
 6 unearned premium reserves; revising the requirements
 7 for certain contractual liability policies purchased
 8 by home warranty associations; amending s. 634.406,
 9 F.S.; revising the circumstances under which service
 10 warranty associations are not required to establish
 11 unearned premium reserves and are authorized to allow
 12 their premiums to exceed specified ratios; revising
 13 the requirements for certain contractual liability
 14 policies purchased by service warranty associations;
 15 amending s. 634.414, F.S.; requiring service warranty
 16 contracts that include coverage for certain accidental
 17 damage to be covered by contractual liability
 18 policies; providing exceptions; providing an effective
 19 date.

20
 21 Be It Enacted by the Legislature of the State of Florida:

22
 23 **Section 1. Subsection (3) of section 634.3077, Florida**
 24 **Statutes, is amended to read:**

25 634.3077 Financial requirements.—

26 (3) An association may not be required to set up an
27 unearned premium reserve if it has purchased contractual
28 liability insurance which demonstrates to the satisfaction of
29 the office that 100 percent of its claim exposure is covered by
30 such insurance. Such contractual liability insurance shall be
31 obtained from an insurer or insurers that hold a certificate of
32 authority to do business within the state or from an insurer or
33 insurers approved by the office as financially capable of
34 meeting the obligations incurred pursuant to the policy or
35 policies. For purposes of this subsection, the contractual
36 liability policy or policies shall contain the following
37 provisions:

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

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

48 (c) The policy or policies may not be canceled or not
49 renewed by the insurer or insurers or the association unless 60
50 days' written notice thereof has been given to the office by the

51 insurer or insurers before the date of such cancellation or
52 nonrenewal.

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

57 (e) The policy or policies may either pay 100 percent of
58 claims as they are incurred, or pay 100 percent of claims due in
59 the event of the association's failure to pay claims when due.

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

63 634.406 Financial requirements.—

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

73 (a) In the event that the service warranty association
74 does not fulfill its obligation under contracts issued in this
75 state for any reason, including insolvency, bankruptcy, or

76 dissolution, the contractual liability insurer or insurers will
77 pay losses and unearned premium refunds under such plans
78 directly to the person making a claim under the contract.

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

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

88 (d) The contractual liability insurance policy or policies
89 shall insure all service warranty contracts which were issued
90 while the policy or policies ~~were~~ in effect whether or not
91 the premium has been remitted to the insurer or insurers.

92 (e) In the event the issuer or issuers of the contractual
93 liability policy or policies ~~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 shall be subject to the cancellation fee
99 provisions of s. 634.414. The salesperson or agent shall refund
100 to the contractual liability policy issuer or issuers the

101 unearned pro rata commission.

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

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

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

116 (a) The company:

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

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

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

123 (b) (d) The insurer or insurers issuing the contractual
 124 liability insurance policy or policies maintain ~~maintains~~ a
 125 policyholder surplus of at least \$100 million and are ~~is~~ rated

126 "A" or higher by A.M. Best Company.

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

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

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

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

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

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

145 2. In conjunction with the warranty association's filing
146 of the quarterly and annual reports, provide ~~provides~~, on a form
147 prescribed by the commission, a statement certifying the gross
148 written premiums in force reported by the warranty association
149 and a statement that all of the warranty association's gross
150 written premium in force is covered under the contractual

151 liability policy or policies, regardless of whether it has been
152 reported.

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

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

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

173 2. The association's, or its parent corporation's, Form
174 10-K, Form 10-Q, or Form 20-F as filed with the United States
175 Securities and Exchange Commission or such other documents

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

182
 183 Failure to timely file the documents required under this
 184 paragraph may, at the discretion of the office, subject the
 185 association to suspension or revocation of its license under
 186 this part.

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

189 634.414 Forms; required provisions.—

190 (5) Each service warranty contract that includes coverage
 191 for accidental damage from handling must be covered by the
 192 contractual liability policy referred to in s. 634.406(3),
 193 unless issued by an association not required to establish an
 194 unearned premium reserve or maintain contractual liability
 195 insurance under s. 634.406(7).

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