

CHAPTER 97-74

Committee Substitute for House Bill No. 549

An act relating to warranty companies; amending s. 634.011, F.S.; redefining the term “motor vehicle” with respect to motor vehicle service agreement companies; amending s. 634.121, F.S.; authorizing such service agreement companies to limit both the time period within which a consumer may transfer the agreement and the number of transfers permissible; amending s. 634.301, F.S.; providing a definition; amending s. 634.312, F.S.; providing for a required element of home warranty contracts; creating s. 634.331, F.S.; providing that a home warranty may provide coverage of residential property listed for sale prior to the sale of such property under certain circumstances; amending s. 634.406, F.S.; revising language with respect to financial requirements; providing an effective date.

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

Section 1. Subsection (6) of section 634.011, Florida Statutes, is amended to read:

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

(6) “Motor vehicle” means:

(a) A self-propelled device operated solely or primarily upon roadways to transport people or property, or the component part of such a self-propelled device, except such term does not include any self-propelled vehicle, or component part of such vehicle, which:

1. Has a gross vehicle weight rating of 10,000 pounds or more, and is not a recreational vehicle as defined by s. 320.01(1)(b);

2. Is designed to transport more than 10 passengers, including the driver; or

3. Is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act, as amended, 49 U.S.C. ss. 1801 et seq.; or

(b) A self-propelled device operated solely or primarily upon water for noncommercial, personal use, ~~or the engine of such a vehicle,~~ or a trailer or other device used to transport such vehicle or device.

Section 2. Subsection (4) of section 634.121, Florida Statutes, is amended to read:

634.121 Filing of forms, required procedures, provisions.—

(4) All motor vehicle service agreements are assignable in a consumer transaction and must contain a statement in conspicuous, boldfaced type,

informing the purchaser of the service agreement of his right to assign it, ~~before the expiration date,~~ to a subsequent retail purchaser of the motor vehicle covered by the service agreement and all conditions on such right of transfer. The assignment must occur within a period of time specified in the agreement, which period may not expire earlier than 15 days after the date of the sale or transfer of the motor vehicle. The service agreement company may charge an assignment fee not to exceed \$40.

Section 3. Subsections (10), (11), (12), (13) and (14) of section 634.301, Florida Statutes, are renumbered as subsections (11), (12), (13), (14), and (15) respectively, and a new subsection (10) is added to said section to read:

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

(10) “Listing period” means the period of time residential property is listed for sale with a licensed real estate broker, beginning on the date the residence is first listed for sale and ending on either the date the sale of the residence is closed, the date the residence is taken off the market, or the date the listing contract with the real estate broker expires.

Section 4. Subsection (4) of section 634.312, Florida Statutes, is renumbered as subsection (5) and a new subsection (4) is added to said section to read:

634.312 Filing, approval of forms.—

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

Section 5. Section 634.331, Florida Statutes, is created to read:

634.331 Coverage of property for sale.—A home warranty may provide coverage of residential property during the listing period of such property for a period not to exceed 12 months, provided that the home warranty company charges the warranty purchaser a separately identifiable charge for the list period coverage in an amount equal to at least 15 percent of the annual premium charged for the home warranty and the charge for such coverage is due at the earlier of the end of the listing period or the date the sale of the residential property is closed.

Section 6. Subsection (5) of section 634.406, Florida Statutes, is amended to read:

634.406 Financial requirements.—

(5) No warranty seller may allow its gross written premiums in force to exceed a 7 5 to 1 ratio to net assets.

Section 7. This act shall take effect October 1, 1997.

Became a law without the Governor's approval May 16, 1997.

Filed in Office Secretary of State May 12, 1997.