

Committee Substitute for
Committee Substitute for Senate Bill No. 2498

An act relating to warranty associations; amending s. 634.271, F.S.; providing an exemption from penalty provisions for certain service warranties; providing actual damages and costs for violations for which such statutory penalties do not apply; providing retroactive applicability; amending s. 634.401, F.S.; redefining the term “service warranty”; providing an effective date.

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

Section 1. Subsection (5) is added to section 634.271, Florida Statutes, to read:

634.271 Civil remedy.—

(5) The penalty provisions in ss. 520.12 and 521.006, as well as the statutory penalty in subsection (1), do not apply to any violation of this part or chapters 520 and 521 relating to or in connection with the sale or failure to disclose in a retail installment contract or lease, prior to April 23, 2002, of a vehicle protection product, or contract or agreement that provides for payment of vehicle protection expenses, as defined in s. 634.011(7)(b)1., so long as the sale of such product, contract, or agreement was otherwise disclosed to the consumer in writing at the time of the purchase or lease. However, in the event of a violation for which such statutory penalties do not apply, the court shall award actual damages and costs, including reasonable attorney’s fees. Nothing in this subsection shall be construed to require the application of the referenced statutory penalty provisions where this subsection is not applicable.

Section 2. Subsection (13) of section 634.401, Florida Statutes, is amended to read:

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

(13) “Service warranty” means any warranty, guaranty, extended warranty or extended guaranty, maintenance service contract equal to or greater than 1 year in length or which does not meet the exemption in paragraph (a), contract, agreement, or other written promise for a specific duration to perform the repair, replacement, or maintenance of a consumer product, or for indemnification for repair, replacement, or maintenance, for the operational or structural failure due to a defect in materials or workmanship, normal wear and tear, power surge, or accidental damage from handling to indemnify against the cost of repair or replacement of a consumer product in return for the payment of a segregated charge by the consumer; however:

(a) Maintenance service contracts written for less than 1 year or less which do not contain provisions for indemnification and which do not provide a discount to the consumer for any combination of parts and labor in

excess of 20 percent during the effective period of such contract, motor vehicle service agreements, transactions exempt under s. 624.125, and home warranties subject to regulation under parts I and II of this chapter are excluded from this definition; ~~and~~

(b) The term “service warranty” does not include service contracts between consumers and condominium associations; ~~and~~.

(c) All contracts that include coverage for accidental damage from handling must be covered by the contractual liability policy referred to in s. 634.406(3).

Section 3. This act shall take effect upon becoming a law and the provisions of this act amending section 634.271, Florida Statutes, apply retroactively to January 1, 1998.

Approved by the Governor June 8, 2005.

Filed in Office Secretary of State June 8, 2005.