

CHAPTER 2019-87

Committee Substitute for House Bill No. 925

An act relating to warranty associations; amending s. 634.3077, F.S.; revising the basis for calculating the required assets in a home warranty association's premium reserve account; requiring that such reserve account be a separate auditable account; requiring home warranty associations to comply with other states' laws; creating s. 634.346, F.S.; prohibiting home warranties from excluding coverage because of the presence of rust or corrosion, except under certain circumstances; specifying requirements for certain home warranties providing coverage for HVAC system components; amending s. 634.406, F.S.; revising the basis for calculating the required assets in a service warranty association's premium reserve account; requiring that such reserve account be a separate auditable account; revising the basis for calculating a certain reserve deposit with the Department of Financial Services; revising the requirements regarding the ratio of gross written premiums to net assets for service warranties; requiring service warranty associations to comply with other states' laws; providing effective dates.

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

Section 1. Subsections (1) and (2) of section 634.3077, Florida Statutes, are amended, and subsection (5) is added to that section, to read:

634.3077 Financial requirements.—

(1) An association licensed under this part shall maintain a funded, unearned premium reserve account, consisting of unencumbered assets, equal to a minimum of 25 percent of the gross written premiums received by it from all warranty contracts in force in this state. Such assets ~~must~~ shall be held in the form of cash or invested in securities for investments as provided in part II of chapter 625. Such reserve account must be a separate auditable account for contracts in force in this state.

(2) An association shall maintain, at a minimum, net assets equal to one-sixth of the written premiums it receives for the issuance and delivery of any binder or warranty in force. Net assets may be less than one-sixth of the premiums written, provided the association has net assets of not less than \$500,000 and maintains a funded, unearned premium reserve account consisting of unencumbered assets equal to a minimum of 40 percent of the gross written premiums received by it from all warranty contracts in force in this state, which ~~must~~ shall be held in the form of cash or invested in securities for investments as provided in part II of chapter 625. Such reserve account must be a separate auditable account for contracts in force in this state.

(5) An association operating in this state that issues home warranty or home service contracts in other states must comply with all financial requirement laws of such other states.

Section 2. Effective January 1, 2020, section 634.346, Florida Statutes, is created to read:

634.346 Home warranty coverage requirements.—

(1) A home warranty sold in this state may not exclude coverage because of the presence of rust or corrosion unless the rust or corrosion was a contributing cause of the mechanical breakdown or failure of a covered appliance, unit, or system.

(2) A home warranty contract providing coverage for wear and tear failures of components of an HVAC system, which contains an exclusion of replacement coverage for any other functional components of the HVAC system on the basis of operational compatibility or operational efficiency requirements as set by the manufacturer, must:

(a) Set forth a disclosure in conspicuous boldfaced type that the home warranty contract does not cover replacement of functional components of HVAC systems for reasons of compatibility or efficiency requirements of the manufacturer unless additional coverage for such circumstance is purchased, and provide the website or telephone number for the consumer to contact to add such additional coverage to the home warranty contract; and

(b) Provide consumers the option to purchase additional coverage, for an additional charge, for the replacement of otherwise functional components of an HVAC system necessary to maintain the compatibility and operating efficiency requirements of the manufacturer.

Section 3. Subsections (1), (2), and (5) of section 634.406, Florida Statutes, are amended, and subsection (8) is added to that section, to read:

634.406 Financial requirements.—

(1) An association licensed under this part shall maintain a funded, unearned premium reserve account, consisting of unencumbered assets, equal to a minimum of 25 percent of the gross written premiums received on all warranty contracts in force ~~which are, wherever written in this state.~~ Such reserve account must be a separate auditable account for contracts in force in this state. Such assets ~~must~~ shall be held as prescribed under ss. 625.301-625.340. For contracts in excess of 2 years which are offered by associations having net assets of less than \$500,000 and for which premiums are collected in advance for coverage in a subsequent year, 100 percent of the premiums for such subsequent years ~~must~~ shall be placed in the funded, unearned premium reserve account.

(2) An association utilizing an unearned premium reserve shall deposit with the department a reserve deposit for contracts in force in this state

equal to 10 percent of the gross written premium received on all warranty contracts in force in this state. Such reserve deposit ~~must~~ shall be of a type eligible for deposit by insurers under s. 625.52. Request for release of all or part of the reserve deposit may be made quarterly and only after the office has received and approved the association's current financial statements, as well as a statement sworn to by two officers of the association verifying such release will not reduce the reserve deposit to less than 10 percent of the gross written premium. The reserve deposit required under this part must shall be included in calculating the reserve required by subsection (1). The deposit required in s. 634.405(1)(b) must shall be included in calculating the reserve requirements of this section.

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

(8) An association operating in this state that issues service warranty or service contracts in other states must comply with all financial requirement laws of such other states.

Section 4. Except as otherwise provided in this act, this act shall take effect July 1, 2019.

Approved by the Governor June 7, 2019.

Filed in Office Secretary of State June 7, 2019.