

CHAPTER 2025-160

Committee Substitute for Committee Substitute for Senate Bill No. 282

An act relating to warranty associations; amending s. 634.3077, F.S.; revising the requirements of contractual liability insurance policies; amending s. 634.406, F.S.; revising the requirements of contractual liability insurance policies; revising the circumstances under which certain service warranty associations are not required to establish unearned premium reserves or to maintain contractual liability insurance and are authorized to allow their premiums to exceed specified ratios; amending s. 634.414, F.S.; requiring that contracts that include coverage for accidental damage from handling be covered by a specified policy; providing an exception; providing an effective date.

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

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

634.3077 Financial requirements.—

(3) An association may not be required to set up 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 insurance. Such contractual liability insurance must ~~shall~~ be obtained from an insurer or insurers that hold a certificate of authority to do business within ~~this~~ the state or from an insurer or insurers approved by the office as financially 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) 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 must ~~shall~~ insure all service warranty contracts which 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) In the event the issuer or issuers of the contractual liability policy or policies ~~are~~ is fulfilling the service warranty covered by policy or policies and in the event the service warranty holder cancels the service warranty, it is the responsibility of the contractual liability policy issuer or issuers to effectuate a full refund of unearned premium to the consumer. This refund is ~~shall be~~ subject to the cancellation fee provisions of s. 634.414. The

salesperson or agent shall refund to the contractual liability policy issuer or issuers the unearned pro rata commission.

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

(g) 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.

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

(a) The company:

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

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

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

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-K, Form 10-Q, or Form 20-F as filed with the United States Securities and Exchange Commission or such other documents required to be filed with a recognized stock exchange, which shall be provided on a quarterly and annual basis within 10 days after the last date each such report must be filed with the Securities and Exchange Commission, the National Association of Security Dealers Automated Quotation system, or other recognized stock exchange.

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

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

634.414 Forms; required provisions.—

(5) All contracts that include coverage for accidental damage from handling must be covered by the contractual liability insurance policy or policies specified in s. 634.406(3), unless such coverage is issued by an association not required to establish an unearned premium reserve or maintain contractual liability insurance under s. 634.406(7).

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

Approved by the Governor June 20, 2025.

Filed in Office Secretary of State June 20, 2025.