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CS/HB 339

2017 Legislature

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 2 An act relating to motor vehicle service agreement
 3 companies; amending s. 634.041, F.S.; revising
 4 qualifications for a motor vehicle service agreement
 5 company to obtain and maintain a license; amending s.
 6 634.121, F.S.; allowing certain entities to cancel
 7 service agreements in certain circumstances; providing
 8 such cancellations are only valid if authorized;
 9 providing an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Paragraph (b) of subsection (8) and paragraph
 14 (a) of subsection (11) of section 634.041, Florida Statutes, are
 15 amended to read:

16 634.041 Qualifications for license.—To qualify for and
 17 hold a license to issue service agreements in this state, a
 18 service agreement company must be in compliance with this part,
 19 with applicable rules of the commission, with related sections
 20 of the Florida Insurance Code, and with its charter powers and
 21 must comply with the following:

22 (8)

23 (b) A service agreement company does not have to establish
 24 and maintain an unearned premium reserve if it secures ~~purchases~~
 25 and maintains contractual liability insurance in accordance with

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26 | the following:

27 | 1. Coverage of ~~The insurance covers~~ 100 percent of the its
28 | claim exposure ~~and~~ is obtained from an insurer approved by the
29 | office, which holds a certificate of authority under s. 624.401
30 | to do business within this state, or secured through a risk
31 | retention group, which is authorized to do business within this
32 | state under s. 627.943 or s. 627.944. Such insurer or risk
33 | retention group must maintain a surplus as regards policyholders
34 | of at least \$15 million.

35 | 2. If the service agreement company does not meet its
36 | contractual obligations, the contractual liability insurance
37 | policy binds its issuer to pay or cause to be paid to the
38 | service agreement holder all legitimate claims and cancellation
39 | refunds for all service agreements issued by the service
40 | agreement company while the policy was in effect. This
41 | requirement also applies to those service agreements for which
42 | no premium has been remitted to the insurer.

43 | 3. If the issuer of the contractual liability policy is
44 | fulfilling the service agreements covered by the contractual
45 | liability policy and the service agreement holder cancels the
46 | service agreement, the issuer must make a full refund of
47 | unearned premium to the consumer, subject to the cancellation
48 | fee provisions of s. 634.121(3). The sales representative and
49 | agent must refund to the contractual liability policy issuer
50 | their unearned pro rata commission.

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51 4. The policy may not be canceled, terminated, or
52 nonrenewed by the insurer or the service agreement company
53 unless a 90-day written notice thereof has been given to the
54 office by the insurer before the date of the cancellation,
55 termination, or nonrenewal.

56 5. The service agreement company must provide the office
57 with the claims statistics.

58

59 All funds or premiums remitted to an insurer by a motor vehicle
60 service agreement company under this part shall remain in the
61 care, custody, and control of the insurer and shall be counted
62 as an asset of the insurer; provided, however, this requirement
63 does not apply when the insurer and the motor vehicle service
64 agreement company are affiliated companies and members of an
65 insurance holding company system. If the motor vehicle service
66 agreement company chooses to comply with this paragraph but also
67 maintains a reserve to pay claims, such reserve shall only be
68 considered an asset of the covered motor vehicle service
69 agreement company and may not be simultaneously counted as an
70 asset of any other entity.

71 (11) (a) A service agreement company offering service
72 agreements providing vehicle protection expenses may meet the
73 requirements for this part only by maintaining contractual
74 liability insurance covering 100 percent of its vehicle
75 protection claim exposure in accordance with paragraph (8) (b) 7

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76 | ~~which insurance must be issued by an insurance company not~~
 77 | ~~affiliated with the service agreement company, unless the~~
 78 | ~~insurance company had issued a contractual liability insurance~~
 79 | ~~policy to a service agreement company on or before January 1,~~
 80 | ~~2002.~~ Service agreements providing vehicle protection expenses
 81 | may be sold only to a service agreement holder that has in-force
 82 | comprehensive motor vehicle insurance coverage for the vehicle
 83 | to be covered by the service agreement.

84 | Section 2. Paragraph (b) of subsection (3) of section
 85 | 634.121, Florida Statutes, is amended to read:

86 | 634.121 Forms, required procedures, provisions.—

87 | (3)

88 | (b) After the service agreement has been in effect for 60
 89 | days, it may not be canceled by the insurer or service agreement
 90 | company unless:

91 | 1. There has been a material misrepresentation or fraud at
 92 | the time of sale of the service agreement;

93 | 2. The agreement holder has failed to maintain the motor
 94 | vehicle as prescribed by the manufacturer;

95 | 3. The odometer has been tampered with or disabled and the
 96 | agreement holder has failed to repair the odometer; or

97 | 4. For nonpayment of premium by the agreement holder, in
 98 | which case the service agreement company shall provide the
 99 | agreement holder notice of cancellation by certified mail.

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101 If the service agreement is canceled by the insurer or service
102 agreement company, the return of premium must not be less than
103 100 percent of the paid unearned pro rata premium, less any
104 claims paid on the agreement. If, after 60 days, the service
105 agreement is canceled by the service agreement holder, lender,
106 finance company, or creditor, the insurer or service agreement
107 company shall return directly to the agreement holder not less
108 than 90 percent of the unearned pro rata premium, less any
109 claims paid on the agreement. Cancellations initiated by
110 lenders, creditors, or finance companies are only valid if
111 authorized by the terms of the service agreement. The service
112 agreement company remains responsible for full refunds to the
113 consumer on canceled service agreements. However, the
114 salesperson and agent are responsible for the refund of the
115 unearned pro rata commission. A service agreement company may
116 effectuate refunds through the issuing salesperson or agent in
117 accordance with paragraphs (c) and (d).

118 Section 3. This act shall take effect July 1, 2017.