

1989

Session Law 89-125

Florida Senate & House of Representatives

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S 817 GENERAL BILL/CS by Insurance; Deratany (Similar CS/H 448)

M.V. Service Agreement Companies; (SEE ALSO: CS/CS/H 1002) revises criteria for qualifications for licensure as service agreement company to provide for deposit of certain funds & purchase of insurance; provides additional criterion for Insurance Dept. to consider prior to suspension or revocation of license or refusal to renew license; provides for home warranty to include contracts or agreements for certain home improvements, etc. Amends 634.011,.041,.081,.301. Effective Date: 06/26/89.

03/30/89 SENATE Prefiled

04/14/89 SENATE Introduced, referred to Insurance; Finance, Taxation and Claims -SJ 127

04/28/89 SENATE Extension of time granted Committee Insurance

05/04/89 SENATE On Committee agenda—Insurance, 05/08/89, 3:15 pm, Room-A-(LL-37)

05/08/89 SENATE Comm. Report: CS by Insurance -SJ 293

05/10/89 SENATE CS read first time -SJ 295; Now in Finance, Taxation and Claims -SJ 293

05/12/89 SENATE Extension of time granted Committee Finance, Taxation and Claims

05/16/89 SENATE Withdrawn from Finance, Taxation and Claims -SJ 378; Placed on Calendar

05/24/89 SENATE Placed on Special Order Calendar -SJ 402; Amendment pending -SJ 443; Amendment withdrawn; CS passed; YEAS 38 NAYS 0 -SJ 447

05/25/89 HOUSE In Messages

06/03/89 HOUSE Received, placed on Calendar -HJ 1553; Read second time; Read third time; CS passed; YEAS 106 NAYS 4 -HJ 1555 Ordered enrolled -SJ 1406

06/12/89 Signed by Officers and presented to Governor

06/26/89 Approved by Governor; Chapter No. 89-125

NOTES: Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

REVISED: _____

BILL NO. CS/SB 817DATE: May 8, 1989Page 1

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. Andrews <i>KA</i>	Fort <i>AB</i>	1. <u>INS</u>	<u>Fav/CS</u>
2. _____	_____	2. <u>FTC</u>	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Motor Vehicle Service
Agreement Companies

BILL NO. AND SPONSOR:

CS/SB 817 by Insurance and
Senator Deratany

I. SUMMARY:

A. Present Situation:

Warranty associations are regulated by ch. 634 of the Florida Insurance Code. These organizations include motor vehicle service agreement companies, part I, home warranty associations, part II, and service warranty associations, part III. Each of these plans promises payment of a benefit upon a determinable contingency in exchange for prepayment and, therefore, are considered to be an insurance arrangement.

Regarding motor vehicle service agreement companies, s. 634.041(6), F.S., currently provides that for such a company to obtain or renew a license, it must have and maintain minimum net assets of \$300,000, and that certain receivables will be deducted from the net assets of the company. To assure faithful performance of a motor vehicle service agreement company's obligations to its members or subscribers, each such company must deposit securities having a market value of no less than \$100,000 with the department, prior to issuance of its license by the department, pursuant to s. 634.052, F.S.

Regarding home warranty associations, a home warranty is defined by s. 634.301(4), F.S., as any contract or agreement which is offered in connection with the sale of residential property, or offered in connection with a loan of \$5,000 or more, secured by residential property which is the subject of the warranty, but not related to sale of the property, where the warranty holder is indemnified against the cost of repair or replacement of any structural component or appliance of a home, necessitated by wear and tear, defect, or failure to detect by inspection.

B. Effect of Proposed Changes:

For ease of understanding, a section-by-section analysis follows:

Section 1: Section 634.011, F.S., 1988 Supplement, is amended to define "motor vehicle" as a self-propelled device operated on land, or primarily or solely operated on water for noncommercial, personal use, or the engine of such a vehicle.

Section 2: Section 634.041(6), F.S., is amended to provide that a motor vehicle service agreement company may deposit \$500,000 or more with the Department of Insurance pursuant to s. 634.052, F.S., and may purchase contractual liability insurance for 100 percent of its claims exposure. The department can then consider such deposit and insurance in determining whether the company meets the minimum net asset requirements.

Section 3: Section 634.081(5), F.S., is amended to provide that the department will consider any deposits made pursuant to s. 634.041(6) in exercising its discretion to suspend or revoke the license of a motor vehicle service agreement company where it finds the ratio of gross premiums written to net assets exceeds 10 to 1, and such company has less than \$1 million of net assets.

Section 4: Section 634.301, F.S., is amended to define "home improvement" as major remodeling, garage enclosure, addition of a room or pool, and other like items which would increase the value of residential property. Normal maintenance for items such as painting, reroofing and other similar items subject to normal wear and tear would not be included in the definition.

The committee substitute further provides that a home warranty may be offered in connection with a home improvement of \$7,500 or more, which residential property is the subject of the warranty, but not in connection with the sale of such property.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

This legislation would allow for a motor vehicle service agreement on items such as boats, which currently is not available.

B. Government:

None.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.

CS/SB 817

COMMITTEE SUBSTITUTE FOR SENATE BILL 817 (CHAPTER 89-)
includes the following:

Section 1: Section 634.011, F.S., 1988 Supplement, is amended to define "motor vehicle" as a self-propelled device operated on land, or primarily or solely operated on water for noncommercial, personal use, or the engine of such a vehicle.

Section 2: Section 634.041(6), F.S., is amended to provide that a motor vehicle service agreement company may deposit \$500,000 or more with the Department of Insurance pursuant to s. 634.052, F.S., and may purchase contractual liability insurance for 100 percent of its claims exposure. The department can then consider such deposit and insurance in determining whether the company meets the minimum net asset requirements.

Section 3: Section 634.081(5), F.S., is amended to provide that the department will consider any deposits made pursuant to s. 634.041(6) in exercising its discretion to suspend or revoke the license of a motor vehicle service agreement company where it finds the ratio of gross premiums written to net assets exceeds 10 to 1, and such company has less than \$1 million of net assets.

Section 4: Section 634.301, F.S., is amended to define "home improvement" as major remodeling, garage enclosure, addition of a room or pool, and other like items which would increase the value of residential property. Normal maintenance for items such as painting, reroofing and other similar items subject to normal wear and tear would not be included in the definition.

The committee substitute further provides that a home warranty may be offered in connection with a home improvement of \$7,500 or more, which residential property is the subject of the warranty, but not in connection with the sale of such property.

STORAGE NAME: S817-f.inv
DATE: June 29, 1989

HOUSE OF REPRESENTATIVES
INSURANCE COMMITTEE
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/SB 817

RELATING TO: Motor Vehicle Service Agreement Companies

SPONSOR(S): Committee on Insurance and Senator Deratany

EFFECTIVE DATE: Upon becoming law

DATE BECAME LAW: June 26, 1989

CHAPTER #: 89-125, Laws of Florida

COMPANION BILL(S): CS/HB 448

OTHER COMMITTEES OF REFERENCE: (1) Finance, Taxation and Claims
(2)

I. SUMMARY:

CS/SB 817 provides companies with the option of depositing \$500,000 with the Department of Insurance and purchasing contractual liability insurance for 100 percent of their claims exposure. If they do, the Department of Insurance may consider such deposits and insurance when determining if a company has met the minimum net asset requirements. The bill also defines "motor vehicle" for the purposes of motor vehicle service agreements and authorizes the sale of home warranties in connection with home improvements of \$7,500 or more.

A. PRESENT SITUATION:

Currently, s. 634.052, F.S., requires each motor vehicle service agreement company to deposit \$100,000 with the Department of Insurance (Department) in order to transact business in Florida. A motor vehicle service agreement company must also maintain at least \$300,000 in net assets in order to obtain or renew a license.

Home warranty contracts may be sold only in connection with the sale of residential property or a loan of \$5,000 or more secured by residential property.

B. EFFECT OF PROPOSED CHANGES:

This bill defines "motor vehicle" for purposes of motor vehicle service agreements as (a) every self-propelled device operated upon land; or (b) a self-propelled device operated solely or primarily upon water for non-commercial, personal use, or the engine of such a vehicle.

The bill would give a company seeking a license the option of depositing \$500,000 with the Department and purchasing contractual liability insurance for 100 percent of its claims exposure. The Department could consider such a deposit and insurance in determining whether the company meets the minimum net asset requirements for licensure.

The bill also would require the Department to consider the amount of deposits before taking action to suspend or revoke a license for violation of the 10:1 premiums to assets requirement.

The opportunity for selling a "home warranty" contract is expanded to include home improvements of \$7,500 or more. Home improvements are defined to include major remodeling, enclosure of a garage, addition of a room, pool or other like items which add value to the property. The definition does not include normal home maintenance.

C. SECTION-BY-SECTION ANALYSIS:

None

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

<u>Insurance Commissioner's Regulatory Trust Fund</u>	<u>FY 89-90</u>
Operating Capital Outlay	\$5,770

2. Recurring or Annualized Continuation Effects:

<u>Insurance Commissioner's Regulatory Trust Fund</u>	<u>FY 89-90</u>	<u>FY 90-91</u>	<u>FY 91-92</u>
Positions	2.0	2.0	2.0
Salaries and Benefits	\$52,592	52,592	52,592
Expenses	<u>6,060</u>	<u>6,060</u>	<u>6,060</u>
TOTAL	\$64,422	58,652	58,652

3. Long Run Effects Other Than Normal Growth:

Unknown

4. Appropriations Consequences:

Unknown

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Unknown

2. Direct Private Sector Benefits:

The public could purchase service agreements on items previously not available, (e.g., boats).

3. Effects on Competition, Private Enterprise, and Employment Markets:

None

D. FISCAL COMMENTS:

None

III. LONG RANGE CONSEQUENCES:

This bill does not directly relate to and is not inconsistent with the goals and policies specified in the State Comprehensive Plan.

IV. COMMENTS:

The mission of the Insurance Committee is to construct insurance laws which will require payment of claims when due, promote the availability of affordable insurance, stabilize insurance rates, protect the solvency of insurance institutions, and expand the ability of companies to profit from wise investments. This bill does not directly relate to the specific mission of the Committee.

V. SIGNATURES:


SUBSTANTIVE COMMITTEE:

Prepared by:



H. Fred Varn

Staff Director:



John Guthrie

SECOND COMMITTEE OF REFERENCE:

Prepared by:

Staff Director:

APPROPRIATIONS:

Prepared by:

Staff Director:
