

CHAPTER 690-199
HOME WARRANTY ASSOCIATIONS

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69O-199.001 Purpose and Scope.

~~The purpose of this rule chapter is to implement the provisions of chapter 634, part II, F.S., to regulate the issuance of a license and the operation of Home Warranty Associations as provided therein.~~

Rulemaking Authority 634.302 FS. Law Implemented 634, Part II FS. History—New 7-15-90, Formerly 4-118.001, 4-199.001.

69O-199.005 Financial Requirements Regarding the Funded, Unearned Premium Reserve Account.

(1)(a) “Gross premium” means the total amount of premium paid by the consumer, inclusive of commissions.

(b) “Gross Written Premiums” means the total amount of premiums paid by the consumer, inclusive of commissions for which the association is obligated.

~~(c)(b)~~ “Obligated” means outstanding warranties in force which have not expired or been canceled and a refund made to the consumer.

(2)(a) Written contracts are required on all sales made between the home warranty association and the consumer.

(b) The serially numbered contract shall include:

1. The selling price to the ultimate consumer;
2. Issuing sales representative;
3. Date issued;
4. Name and street address of warranty holder;
5. Warranty period; and,
6. Other information pertinent to the transaction.

(c) Copies of all warranty contracts shall be maintained by the association for a period of at least four years after expiration of the contract. For purposes of records kept on computer file pursuant to section 634.3135, F.S., a single computer copy may be kept of any form that is uniformly distributed to contract holders, if that computer record exactly duplicates the form sent to all contract holders.

(3) Each home warranty association shall maintain a warranty register, which shall include at least the following items:

- (a) Contract number;
- (b) Date issued;
- (c) Issuing sales representative;
- (d) Name and street address of warranty holder;
- (e) Warranty period;
- (f) Net Premium;
- (g) Commission to sales representative; and,
- (h) Gross Premium.

~~(4) “Gross premium” means the total amount of premium paid by the consumer, inclusive of commissions.~~

~~(4)(5)~~ The unearned premium reserve account is calculated as follows: the minimum reserve for all home warranty associations shall be 25 percent of the gross written premium for which the association is obligated on all contracts, issued in this any state.

~~(5)(6)~~ The unearned premium reserve account shall be totally funded and identified at all times by unencumbered assets. Those prescribed assets funding the unearned premium reserve shall be clearly designated for this purpose and such reserve account must be a separate auditable account for contracts in force in this state.

~~(6)(7)~~ The ratios required by section 634.3077(2), F.S., are net assets to gross written premiums for which the association is obligated, wherever written, in any state, except that the ratio of net assets to gross written premiums may be less if the association has net assets of not less than \$500,000 and maintains a funded, unearned premium

reserve account equal to a minimum of 40 percent of the gross written premiums received by it from all warranty contracts in force in this state.

Rulemaking Authority 634.302 FS. Law Implemented 634.3077 FS. History—New 7-16-92, Formerly 4-199.005.

69O-199.008 Application for License and License Renewal. General Eligibility Requirements.

Substantial rewording of Rule 69O-199.008, F.A.C. follows. See Florida Administrative Code for present text.

(1) Application for License as a Home Warranty Association

(a) An application for a person applying for a license as a home warranty association consists of the following:

1. Form OIR-C1-490, “Application for License Home Warranty Association,” effective 6/20, hereby incorporated by reference and available at www.flrules.org/XXXXX;

2. Form OIR-A3-455, “Home or Service Warranty Association Surety Bond,” effective 6/20, hereby incorporated by reference and available at www.flrules.org/XXXXX;

3. Form OIR-C1-144, “Service of Process Consent & Agreement,” effective 6/04, hereby incorporated by reference and available at www.flrules.org/XXXXX;

4. Form OIR-C1-905, “Instructions for Furnishing Background Investigative Reports,” effective 6/20, hereby incorporated by reference and available at www.flrules.org/XXXXX;

5. Form OIR-C1-938, “Fingerprint Payment and Submission Procedures,” effective 6/20, hereby incorporated by reference and available at www.flrules.org/XXXXX;

6. Form OIR-C1-969, “Contractual Liability Policy,” effective 6/20, hereby incorporated by reference and available at www.flrules.org/XXXXX;

7. Form OIR-C1-995, “List of Proposed Sales Representatives,” effective 10/05, hereby incorporated by reference and available at www.flrules.org/XXXXX;

8. Form OIR-C1-1423, “Biographical Affidavit,” effective 6/20, hereby incorporated by reference and available at www.flrules.org/XXXXX; and

9. Form OIR-C1-2221, “Management Information Form,” effective 6/20, hereby incorporated by reference and available at www.flrules.org/XXXXX.

(b) A person applying for a license as a home warranty association shall submit the forms listed in paragraph (1)(a) as directed by the Office electronically at <https://www.flour.com/iportal>.

(2) Annual License Renewal

(a)1. All home warranty association licenses shall expire on June 1.

2. Failure to submit the application for continuance by June 1 shall result in expiration of the license and will require the filing of a new application for licensure.

(b) A licensee seeking to continue operating as a home warranty association shall submit the following:

1. Form OIR-A3-1073, “Application for Renewal of License Home Warranty Association,” effective 6/20, hereby incorporated by reference and available at www.flrules.org/XXXXX, filed electronically at <https://www.flour.com/iportal> and

2. A fee of \$200.00 filed annually in conjunction with the June 1 filing of the Annual Statement.

(c) Any licensee who fails to renew a home warranty association license shall immediately cease and desist from engaging in the home warranty business in the state of Florida. The home warranty association shall honor those home warranty contracts in force until the date of expiration or the date of cancellation and a refund is made to the consumer.

(1) Biographical statements (Form OIR-422 as adopted in rule 69O-199.015, F.A.C., on the following persons shall be included in the application for a Certificate of Authority (COA):

(a) Persons who own or control in excess of five percent of the outstanding stock of the home warranty association;

(b) Members of the board of directors of the home warranty association;

(c) All officers who are identified in section 634.306, F.S., and any other individuals who have policy decision making authority;

(d) All officers and directors of any parent corporation or corporations of the home warranty association, if parent exists; and,

(e) All officers and directors of any external management company contracted with the home warranty association, if management company exists, pursuant to paragraph (1)(c), above.

(2) This requirement also applies to individuals who, subsequent to the date of application for a COA, become associated with a home warranty association and meet any of the qualifications listed in paragraphs (1)(a) through (1)(e), above.

(3) Home warranty associations are required to notify the Office in writing within 15 days of any new officers, directors, or stockholders owning 5% or more of the outstanding voting securities of the home warranty association.

(4) Home warranty associations are required to notify the Office in writing within 15 days of any change in the corporate name, business name, trademark, or emblem of the association.

(5) All filings shall be submitted electronically to ~~http://www.flor.com/iportal~~.

Rulemaking Authority 634.302 FS. Law Implemented 624.424, 634.304, 634.306, 624.307, 634.3073, 634.315 FS. History—New 7-16-92, Amended 4-3-94, Formerly 4-199.008, Amended 7-30-17.

690-199.010 License Renewal.

~~(1)(a) All home warranty association licenses shall expire on June 1.~~

~~(b) The qualified license holder shall file for renewal of its license on the form prescribed by the Office.~~

~~(c) The renewal form and a fee of \$200.00 shall be received by the Office annually at least 30 days prior to June 1 of each year. All filings shall be submitted electronically to ~~http://www.flor.com/iportal~~.~~

~~(d) Failure to submit the application for renewal by June 1 shall result in expiration of the license, and will require the filing of a new application for licensure.~~

~~(2)(a) Any licensee who fails to renew said license shall immediately cease and desist from engaging in the Home Warranty business in the State of Florida.~~

~~(b) The association shall honor those warranty contracts in force until date of expiration or date of cancellation, with a refund made to the consumer, provided by written contract.~~

Rulemaking Authority 634.302 FS. Law Implemented 624.424, 634.307 FS. History—New 7-16-92, Amended 4-3-94, Formerly 4-199.010, Amended 7-30-17.

690-199.012 Annual Statement.

(1)(a) An Annual Statement Report shall be filed with the Office of Insurance Regulation, on or before March 1 of each year, on Form OIR-A3-491, “Annual Statement for Home Warranty Association,” effective 6/20, hereby incorporated by reference and available at www.flrules.org/XXXXX. The filings shall be submitted electronically via the Office’s system at <https://www.flor.com/iportal> on the form prescribed by the Office in rule 690-199.015, F.A.C.

(b) If the Annual Statement statement does not include all information requested in the format provided, it will not be deemed filed until all deficiencies are corrected.

(2) A late filing fee will be assessed in accordance with rule chapter 690-207, F.A.C., for each company that has not filed a complete Annual Statement annual statement in accordance with this rule.

(3)(a) Any request for an extension of filing the Annual Statement annual report shall be in writing and the reason(s) for the extension explained in detail.

(b) All requests for extension must be filed with the Office fifteen (15) days prior to the deadline date for filing the annual report.

(c) Any request for extension request received less than fifteen (15) days prior to due date will be denied except for unavoidable circumstances, which include ~~for example~~:

1. Death of key personnel; or
2. Destruction of records by fire, hurricane, or other natural disasters.

~~(4) All filings shall be submitted electronically at <http://www.flor.com/iportal>.~~

Rulemaking Authority 634.302 FS. Law Implemented 624.307(1), 624.424, 634.313 FS. History—New 7-16-92, Amended 4-3-94, Formerly 4-199.012, Amended 7-30-17.

690-199.015 Forms Incorporated by Reference.

(1) The following forms are incorporated into this rule chapter by reference to implement the provisions of chapter 634, part II, F.S.:

Title	Form Number
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(a) Application for License Home Warranty Association	OIR C1 490 http://www.flrules.org/Gateway/reference.asp?No=Ref 08297 (12/05)
(b) Annual Report	OIR A3 491 http://www.flrules.org/Gateway/reference.asp?No=Ref 08300 (03/91)
(c) Statement of Acquisition, Merger or Consolidation of A Specialty Insurer Pursuant to sections 628.461, 628.4615, F.S.	OIR C1 448 (12/05)
(d) Consent and Agreement in Re: Service of Process	OIR C1 144 (11/90)
(e) Authority to Release Information	OIR C1 450 (08/91)
(f) Biographical Statement and Affidavit	OIR 422 (11/90)
(g) Abbreviated Biographical Statement	OIR 449 (01/91)
(h) Home Warranty Bond	OIR 455 (01/89)
(i) Certification of Filing Annual Tax on Premiums and Assessment	OIR 440 (12/89)
(j) Resolution Form	OIR 514 (11/90)
(k) Renewal Notice	OIR 1073 (04/92)

(2) Forms are available at <http://www.floir.com/iportal>.

Rulemaking Authority 634.302 FS. Law Implemented 624.424, 634.306, 634.3073, 634.3077, 634.313, 634.315 FS. History—New 7-15-90, Formerly 4-118.015, Amended 7-16-92, Formerly 4-199.015, Amended 7-30-17.