

1 A bill to be entitled
2 An act relating to premium finance companies
3 and agreements; amending s. 627.828, F.S.;
4 revising the net worth requirements for an
5 applicant for a premium finance company
6 license; authorizing a surety bond with a
7 reduced net worth requirement; requiring that
8 premium finance companies maintain Errors and
9 Omissions Coverage and providing an exception;
10 amending s. 627.8405, F.S.; revising prohibited
11 acts by a premium finance company; amending s.
12 627.848, F.S.; requiring notification to the
13 insured by the insurer and premium finance
14 company on a canceled insurance contract, the
15 amount of any unearned premium and unearned
16 commission due to the insured after
17 satisfaction of the contract; providing an
18 effective date.

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

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22 Section 1. Section 627.828, Florida Statutes, is
23 amended to read:

24 627.828 License required.--

25 (1) Except as provided in ss. 627.901 and 627.902, no
26 person shall engage in the business of a premium finance
27 company unless licensed by the department. Every premium
28 finance company licensed under the provisions of this part
29 shall maintain at all times a net worth of \$35,000. However,
30 in lieu of having a net worth of \$35,000, a premium finance
31 company that has a net worth of \$10,000 may file a surety bond

1 or other acceptable collateral with the department as approved
2 by it in the amount of \$35,000, which bond or collateral must
3 be maintained.

4 (2) The application for a license shall be in writing
5 and in the form prescribed by the department. Every applicant
6 shall provide evidence ~~proof~~ of a net worth of \$35,000
7 attested by two officers of the company, or a \$35,000 surety
8 bond and evidence of a net worth of \$10,000 attested by two
9 officers of the company. Assets to be used in computing the
10 required net worth shall be determined by rules adopted by the
11 department.

12 (3)(a) Each premium finance company authorized under
13 the provisions of this part shall maintain at all times an
14 errors and omissions insurance policy of no less than \$500,000
15 covering the acts of its officers, employees, and agents. The
16 policy may contain reasonable deductibles not to exceed 2
17 percent of the policy limits.

18 (b)1. A premium finance company with an unencumbered
19 net worth of at least \$15 million may self-insure the errors
20 and omissions coverage if it meets the requirements of this
21 paragraph.

22 2. To qualify as a self-insurer the premium finance
23 company must:

24 a. Have and maintain an unencumbered net worth of \$15
25 million, which shall be determined based on assets permissible
26 for insurers pursuant to ss. 625.012 and 625.031;

27 b. Annually demonstrate as part of its annual report,
28 to the satisfaction of the department, that the net-worth
29 requirement is being met; and

1 c. Obtain, as a part of its annual application for
2 licensure as a premium finance company, a certificate of
3 self-insurance from the department to be renewed annually.

4 3. If the department finds that the premium finance
5 company:

6 a. Is not maintaining at all times an unencumbered net
7 worth of at least \$15 million; or

8 b. Is not, in good faith, covering the errors and
9 omissions of its officers, employees and agents,

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11 the department shall, in addition to other penalties under
12 this code, revoke or suspend the certificate of
13 self-insurance, and the premium finance company shall be
14 subject to the requirements of paragraph (a).

15 (c) The department may adopt rules necessary to
16 administer this subsection, including rules prescribing the
17 necessary forms.

18 ~~(4)(3)~~ A single license shall entitle the holder to
19 operate more than one office.

20 ~~(5)(4)~~ At the time of filing an application for a
21 license, the applicant shall pay to the department the license
22 fee and, upon original application or upon application
23 subsequent to denial of application, or revocation, suspension
24 or surrender of a license, an investigation fee.

25 ~~(6)(5)~~ Such license shall state the name and address
26 of the licensee, and a copy shall be kept conspicuously posted
27 in each office of the licensee and shall not be transferable
28 or assignable.

29 ~~(7)(6)~~ Prior to moving an existing office to another
30 location, a licensee shall notify the department in writing of
31 its intention to do so.

1 Section 2. Section 627.8405, Florida Statutes, is
2 amended to read:

3 627.8405 Prohibited ~~acts~~ premium financing.--No
4 premium finance company shall, in a premium finance agreement
5 or other agreement, finance the cost of or otherwise provide
6 for the collection or remittance of dues, assessments, fees,
7 or other periodic payments of money ~~provide financing~~ for the
8 cost of:

9 (1) A membership in an automobile club. The term
10 "automobile club" means a legal entity which, in consideration
11 of dues, assessments, or periodic payments of money, promises
12 its members or subscribers to assist them in matters relating
13 to the ownership, operation, use, or maintenance of a motor
14 vehicle; however, this definition of "automobile club" does
15 not include persons, associations, or corporations which are
16 organized and operated solely for the purpose of conducting,
17 sponsoring, or sanctioning motor vehicle races, exhibitions,
18 or contests upon racetracks, or upon racecourses established
19 and marked as such for the duration of such particular events.
20 The words "motor vehicle" used herein have the same meaning as
21 defined in chapter 320.

22 (2) An accidental death and dismemberment policy sold
23 in combination with a personal injury protection and property
24 damage only policy.

25 (3) Any product not regulated under the provisions of
26 this insurance code.

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28 This section also applies to premium financing by any
29 insurance agent or insurance company under part XVI. The
30 department shall promulgate rules to assure disclosure, at the
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1 time of sale, of coverages financed with personal injury
2 protection.

3 Section 3. Section 627.848, Florida Statutes, 1996
4 Supplement, is amended to read:

5 627.848 Cancellation of insurance contract upon
6 default.--

7 (1) When a premium finance agreement contains a power
8 of attorney or other authority enabling the premium finance
9 company to cancel any insurance contract listed in the
10 agreement, the insurance contract shall not be canceled unless
11 cancellation is in accordance with the following provisions:

12 (a)1. Not less than 10 days' written notice shall be
13 mailed to each insured shown on the premium finance agreement
14 of the intent of the premium finance company to cancel his
15 insurance contract unless the defaulted installment payment is
16 received within 10 days.

17 2. After expiration of such period, the premium
18 finance company shall mail to the insurer a request for
19 cancellation, specifying the effective date of cancellation
20 and the unpaid premium balance due under the finance contract,
21 and shall mail a copy thereof to the insured at his last known
22 address as shown on the premium finance agreement.

23 (b) Every notice of cancellation shall include, in
24 type or print of which its face shall not be smaller than 12
25 points, a statement that, if the insurance contract or
26 contracts provide motor vehicle liability insurance required
27 by the financial responsibility law, proof of financial
28 responsibility is required to be maintained continuously for a
29 period of 3 years, pursuant to chapter 324, and the operation
30 of a vehicle without such financial responsibility is
31 unlawful.

1 (c) Upon receipt of a copy of the cancellation notice
2 by the insurer or insurers, the insurance contract shall be
3 canceled as of the date specified in the cancellation notice
4 with the same force and effect as if the notice of
5 cancellation had been submitted by the insured himself,
6 whether or not the premium finance company has complied with
7 the notice requirement of this subsection, without requiring
8 any further notice to the insured or the return of the
9 insurance contract.

10 (d) All statutory, regulatory, and contractual
11 restrictions providing that the insured may not cancel his
12 insurance contract unless he or the insurer first satisfies
13 such restrictions by giving a prescribed notice to a
14 governmental agency, the insurance carrier, a mortgagee, an
15 individual, or a person designated to receive such notice for
16 such governmental agency, insurance carrier, or individual
17 shall apply when cancellation is effected under the provisions
18 of this section. The insurer, in accordance with such
19 prescribed notice when it is required to give such notice in
20 behalf of itself or the insured, shall give notice to such
21 governmental agency, person, mortgagee, or individual; and it
22 shall determine and calculate the effective date of
23 cancellation from the day it receives the copy of the notice
24 of cancellation from the premium finance company.

25 (e) Whenever an insurance contract is canceled in
26 accordance with this section, the insurer shall promptly
27 return the unpaid balance due under the finance contract, up
28 to the gross amount available upon the cancellation of the
29 policy, to the premium finance company and any remaining
30 unearned premium to the agent or the insured, or both, for the
31 benefit of the insured or insureds. The insurer shall notify

1 the insured and the agent of the amount of unearned premium
2 returned to the premium finance company and the amount of
3 unearned commission held by the agent. The premium finance
4 company within 15 days shall notify the insured and the agent
5 the amount of unearned premium. Within 15 days of receipt of
6 notification from the premium finance company, the agent shall
7 return such amount including any unearned commission to the
8 insured or with the written approval of the insured apply such
9 amount to the purchase of other insurance products regulated
10 by the department. The department may adopt rules necessary to
11 implement the provisions of this subsection.

12 (f) If an insurance contract is canceled by an insurer
13 upon the receipt of a copy of the cancellation notice from a
14 premium finance company, and if such premium finance company
15 has failed to provide the notice required by this subsection,
16 the insured shall have a cause of action against the premium
17 finance company for damages caused by such failure to provide
18 notice.

19 (2) Any court of this state rendering or affirming a
20 judgment or decree against a premium finance company and in
21 favor of any named or omnibus insured or beneficiary arising
22 out of a wrongful or improper cancellation of an insurance
23 policy by such premium finance company shall award reasonable
24 attorney's fees to the insured or beneficiary.

25 Section 4. This act shall take effect upon becoming a
26 law.

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