

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1629 Session of
1979

INTRODUCED BY VROON, F. TAYLOR, E. H. SMITH, MADIGAN AND
CORNELL, JULY 10, 1979

REFERRED TO COMMITTEE ON INSURANCE, JULY 11, 1979

AN ACT

1 Providing for the licensing of insurance premium finance
2 companies, the regulation of insurance premium finance
3 agreements, establishing rates of interest or discount and
4 service charges, regulating the cancellation of policies of
5 insurance for nonpayment of an insurance premium finance
6 loan; imposing certain powers and duties upon the Insurance
7 Commissioner and providing for penalties for violation.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Short title.

11 This act shall be known and may be cited as the "Insurance
12 Premium Finance Company Act."

13 Section 2. Definitions.

14 The following words and phrases when used in this act shall
15 have, unless the context clearly indicates otherwise, the
16 meanings given to them in this section:

17 "Commissioner." The Insurance Commissioner of Pennsylvania.

18 "Insurance premium finance agreement." An agreement by which
19 an insured or prospective insured promises to pay to an
20 insurance premium finance company the amount advanced or to be

1 advanced under the agreement to an insurer or to an insurance
2 agent or broker in payment of premiums of an insurance contract
3 together with interest or discount and a service charge as
4 authorized and limited by this act.

5 "Insurance premium finance company." A person engaged in the
6 business of entering into insurance premium finance agreements.

7 "Licensee." An insurance premium finance company holding a
8 license issued under this act.

9 "Person." Includes an individual, partnership, association,
10 business corporation, nonprofit corporation, common law trust,
11 joint-stock company or any other group of individuals however
12 organized.

13 Section 3. Licenses.

14 (a) License requirement.--No person shall engage in the
15 business of an insurance premium finance company in the
16 Commonwealth without first being so licensed by the
17 commissioner.

18 (b) Fees.--The annual license fee shall be \$200. Licenses
19 may be renewed from year to year as of July 1 of each year upon
20 payment of the fee of \$200. The fee for said license shall be
21 paid to the Insurance Commissioner.

22 (c) Authority of commissioner.--The commissioner shall have
23 authority, at any time, to require the applicant fully to
24 disclose the identity of all stockholders, partners, officers,
25 and employees and he may, in his discretion, refuse to issue or
26 renew a license in the name of any firm, partnership, or
27 corporation if he is not satisfied that any officer, employee,
28 stockholder, or partner thereof who may materially influence the
29 applicant's conduct meets the standards of this act.

30 (d) Non-application of section.--This section shall not

1 apply to:

2 (1) banks, bank and trust companies and mutual banks
3 which are Federally chartered or chartered by the
4 Commonwealth of Pennsylvania;

5 (2) savings and loan associations which are Federally
6 chartered or chartered by the Commonwealth of Pennsylvania;

7 (3) consumer discount companies licensed by the
8 Commonwealth under the terms of the act of April 8, 1937
9 (P.L.262, No.66), known as the "Consumer Discount Company
10 Act"; and

11 (4) insurance companies, associations or exchanges
12 authorized to do an insurance business in this Commonwealth
13 under the terms of the act of May 17, 1921 (P.L.682, No.284),
14 known as "The Insurance Company Law of 1921," which engage in
15 the financing of their own sales.

16 Section 4. Issuance and renewal of license.

17 (a) Investigation.--Upon the filing of an application in a
18 form to be specified by the commissioner and the payment of the
19 license fee the commissioner shall make an investigation of each
20 applicant and shall issue a license if the applicant is
21 qualified in accordance with this act. The applicant shall make
22 answer in writing and under oath to such interrogatories and on
23 such forms as the commissioner shall prescribe. If the
24 commissioner does not so find, he shall, within 60 days after he
25 has received such application, at the request of the applicant,
26 give the applicant a full hearing.

27 (b) Qualifications.--Before the commissioner shall issue or
28 renew a license as may be applied for when he shall be satisfied
29 that the person to be licensed:

30 (1) is competent and trustworthy and intends to act in

1 good faith in the capacity involved by the license applied
2 for;

3 (2) has a good business reputation and has had
4 experience, training, or education so as to be qualified in
5 the business for which the license is applied for; and

6 (3) if a corporation, is a corporation incorporated
7 under the laws of this Commonwealth or a foreign corporation
8 authorized to transact business in this Commonwealth.

9 (c) Net worth.--Before the commissioner shall issue or renew
10 any license under this act, he shall ascertain that the
11 applicant has and maintains net worth equal to \$50,000, as shall
12 be certified and sworn to by the applicant on a form promulgated
13 by the commissioner. Application to the commissioner for
14 issuance or renewal of a license under this act shall further be
15 accompanied by a signed and sworn statement from a certified
16 public accountant attesting to said net worth.

17 Section 5. Revocation or suspension of license.

18 (a) Grounds.--The commissioner may revoke or suspend the
19 license of any insurance premium finance company when and if
20 after investigation it appears to the commissioner that:

21 (1) any license issued to such company was obtained by
22 fraud;

23 (2) there was any misrepresentation in the application
24 for the license;

25 (3) the holder of such license has otherwise shown
26 himself untrustworthy or incompetent to act as a premium
27 finance company; or

28 (4) such company has violated any of the provisions of
29 this act.

30 (b) Hearing.--Before the commissioner shall revoke, suspend,

1 or refuse to renew the license of any insurance premium finance
2 company, the aggrieved person shall be entitled to a hearing in
3 accordance with the Administrative Agency Law, (2 Pa.C.S. § 501
4 et seq.).

5 (c) Penalty.--In lieu of revoking or suspending the license
6 for any of the causes enumerated in this section, after hearing
7 as herein provided, the commissioner may subject such company to
8 a penalty of not more than \$200 for each offense when in his
9 judgment he finds that the public interest would not be harmed
10 by the continued operation of such company. The amount of any
11 such penalty shall be paid by such company to the commissioner.

12 (d) Appeal.--If the commissioner refuses to issue to any
13 person, a license as a premium finance company, or he revokes,
14 suspends or refuses to renew the license of any insurance
15 premium finance company or he imposes a penalty on such company,
16 after a hearing as provided under subsection (b), the applicant
17 or licensee may appeal from such refusal to issue a license or
18 from such adjudication in accordance with Administrative Agency
19 Law, (2 Pa.C.S. § 501 et seq.).

20 Section 6. Licensee's books and records.

21 (a) Availability.--Every licensee shall maintain and make
22 available all books, records, accounts and other files of its
23 premium finance transactions and the said records shall be open
24 to examination and investigation by the commissioner. The
25 commissioner may at any time during regular business hours
26 examine such records at any location at which such records are
27 maintained.

28 (b) Preservation of books, records, etc.--Every licensee
29 shall preserve all books, records, accounts and other files of
30 such insurance premium finance transactions, including cards

1 used in a card system, if any, for at least three years after
2 making the final entry in respect to any insurance premium
3 finance agreement. The preservation of records in photographic
4 form shall constitute compliance with this requirement.

5 Section 7. Form of insurance premium finance agreement.

6 (a) Format of entries.--An insurance premium finance
7 agreement shall:

8 (1) be dated and signed by the insured, and the printed
9 portion thereof shall be in at least eight point type;

10 (2) be dated and signed by the agent or broker, if any,
11 executing such agreement;

12 (3) contain the name and principal place of business of
13 the insurance agent negotiating the related insurance
14 contract, the name and residence or the place of business of
15 the insured as specified by him, the name and place of
16 business of the insurance premium finance company to which
17 payments are to be made, a brief description of the insurance
18 contracts involved and the amount of the premium therefor;
19 and

20 (4) comply with all applicable standards set forth in 15
21 U.S.C. 1601 et seq.

22 (b) Approval by commissioner.--The form of an insurance
23 premium finance agreement shall be one which has been submitted
24 to the commissioner for his review and approved by him for use.
25 The commissioner shall approve or disapprove a form within 30
26 days from the date of its submittal. If the commissioner should
27 fail to act within this time period, the form, as submitted,
28 shall be deemed approved.

29 Section 8. Limitation on interest and other charges.

30 (a) Interest or discount charge.--An insurance premium

1 finance company shall not charge, contract for, receive, or
2 collect an interest or discount charge other than as permitted
3 by this act.

4 (b) Computation.--The interest or discount is to be computed
5 on the balance of the premiums due (after subtracting the down
6 payment made by the insured in accordance with the insurance
7 premium finance agreement) from the effective date of the
8 insurance coverage, for which the premiums are being advanced,
9 to and including the date when the final installment of the
10 insurance premium finance agreement is payable.

11 (c) Rates and installments.--The interest or discount shall
12 be a maximum of \$9 per \$100 per year plus an additional service
13 charge of \$10 per insurance premium finance agreement which need
14 not be refunded upon cancellation or prepayment. The interest or
15 discount permitted by this subsection anticipates repayment in
16 consecutive monthly installments equal in amount for a period of
17 one year. For repayment in greater or lesser periods or in
18 unequal, irregular or other than monthly installments, the
19 interest or discount may be computed at an equivalent effective
20 rate having due regard for the installments as scheduled.

21 (d) Prepayment and refund.--Notwithstanding the provisions
22 of any insurance premium finance agreement, any insured may
23 prepay the obligation in full at any time. In such event he
24 shall receive a refund credit, which refund credit shall
25 represent at least as great a proportion of the interest or
26 discount as the sum of the periodic balances after the month in
27 which prepayment is made bears to the sum of all periodic
28 balances under the schedule of installments in the agreement.
29 Where the amount of the refund credit is less than \$1, no refund
30 need be made.

1 (e) Single premium.--A single premium or charge may be
2 assessed upon the insured for an insurance policy of any term.

3 (f) Limitation on charges, etc.--Any interest, finance
4 charge, service charge, discount, bonus, fees, fines, charges or
5 other considerations charged in connection with the financing of
6 insurance premiums shall be charged on only the first three
7 years of any policy term.

8 Section 9. Delinquency and cancellation charges.

9 An insurance premium finance agreement may provide for the
10 payment by the insured of a delinquency charge of \$1 to a
11 maximum of 5% of the delinquent installment but not to exceed \$5
12 on any installment which is in default for a period of five days
13 or more. If the default results in the cancellation of any
14 insurance contract listed in the agreement, the agreement may
15 provide for the payment by the insured of a cancellation charge
16 equal to the difference between any delinquency charge imposed
17 with respect to the installment in default and \$5.

18 Section 10. Cancellation of insurance contract upon default.

19 (a) Cancellation request.--An insurance premium finance
20 agreement may contain a power of attorney authorizing the
21 insurance premium finance company to request an insurance
22 company to cancel any insurance contract or contracts listed in
23 the agreement. Such agreement shall provide that the insured be
24 given written notice mailed to the insured's last known address
25 as shown on the records of the insurance premium finance
26 company, not less than ten days from the expiration of the grace
27 period for the payment of premiums or any installment thereof,
28 and shall also provide that a request will be made to the
29 insurance company to cancel the contract or contracts. Such
30 requests for cancellation will be effective unless payment is

1 received by the insurance premium finance company within ten
2 days from the date of the notice to the insured.

3 (b) Default.--If payment has not been received by the
4 insurance premium finance company within the period specified in
5 subsection (a) the insurance premium finance company may request
6 the insurer to cancel the contract of insurance. Policies of
7 insurance may then be cancelled by the insurer in accordance
8 with other applicable provisions of law except that the
9 effective date of such cancellation shall not be less than ten
10 days subsequent to the date the insurer gives notice of
11 cancellation to the insured.

12 (c) Applicability of other restrictions.--All statutory,
13 regulatory, and contractual restrictions providing that the
14 insurance contract may not be cancelled unless notice is given
15 to a governmental agency, mortgagee, or other third party shall
16 apply where cancellation is effected under the provisions of
17 this section. The insurer shall give the prescribed notice on
18 behalf of itself or the insured to any governmental agency,
19 mortgagee, or other third party on or before the second business
20 day after the day it receives the notice of cancellation from
21 the insurance premium finance company and shall determine the
22 effective date of cancellation taking into consideration the
23 number of days notice required to complete the cancellation.

24 (d) Applicability of section.--All persons engaged in an
25 insurance premium finance business, whether licensed under the
26 terms of this act or exempted under the terms of section 3(d),
27 shall be subject to the provisions of this section
28 notwithstanding any other provisions of law.

29 Section 11. Return premiums.

30 Whenever a financed insurance contract is cancelled, the

1 insurer shall return whatever gross unearned premiums are due
2 under the insurance contract to the insurance premium finance
3 company for the account of the insured or insureds as soon as
4 reasonably possible, but in no event shall the period for
5 payment exceed 60 days after the effective date of cancellation.
6 In the event that the crediting of return premiums to the
7 account of the insured results in a surplus over the amount due
8 from the insured, the insurance premium finance company shall
9 refund such excess to the insured provided that no such refund
10 shall be required if it amounts to less than \$1.

11 Section 12. Exemption from any filing requirements.

12 No filing of the insurance premium finance agreement shall be
13 necessary to perfect the validity of such agreement as a secured
14 transaction as against creditors, subsequent purchasers,
15 pledges, encumbrancers, successors, or assigns.

16 Section 13. Penalties for violations.

17 Any insurance premium finance company or insurer, agent or
18 broker who willfully and knowingly violates the provisions of
19 any section of this act shall be guilty of a misdemeanor of the
20 third degree.

21 Section 14. Effective date.

22 This act shall take effect in 60 days.