

**STATE OF MONTANA
MONICA J. LINDEEN
State Auditor
Commissioner of Insurance & Securities
840 Helena Avenue
Helena, MT 59601**

**APPLICATION FOR CERTIFICATE OF AUTHORITY
PREMIUM FINANCE COMPANY**

NAME OF PREMIUM FINANCE COMPANY

STREET ADDRESS

CITY

STATE

ZIP CODE

Mailing address (if different): _____

Phone #: () _____ FEIN #: _____

Date of organization or incorporation _____ State of Domicile _____

Herewith submitted are the following documents:

- () Copy of the form of contract to be used.
- () Certified copy of charter or articles of incorporation and bylaws, if any.
- () Latest financial statement executed on oath by president or other principal officer.
- () Certificate from the Secretary of State of Montana showing compliance with the corporation laws of this state, if incorporated.
- () \$100.00 license fee.
- () Biographical Affidavit of each principal officer.

DATED _____

(Signature)

(Title)

BIOGRAPHICAL AFFIDAVIT

To the extent permitted by law, this affidavit will be kept confidential by the state insurance regulatory authority.

(Print or Type)

Full Name, Address and telephone number of the present or proposed entity under which this biographical statement is being required (Do Not Use Group Names). _____

In connection with the above-named entity, I herewith make representations and supply information about myself as hereinafter set forth. (Attach addendum or separate sheet if space hereon is insufficient to answer any question fully.) IF ANSWER IS "NO" OR "NONE," SO STATE.

- 1. a. Affiant's Full Name (Initials Not Acceptable). _____
b. Maiden Name (if applicable). _____
- 2. a. Have you ever had your name changed? _____ If yes, give the reason for the change and provide the full name(s).

- b. Other names used at any time (including aliases).

- 3. a. Are you a citizen of the United States?
b. Are you a citizen of any other country, if so, what country?
- 4. Affiant's Occupation or Profession. _____
- 5. Affiant's business address. _____
Business telephone. _____

Beginning/Ending
Dates (MM/YY) _____ - _____ Employers'Name _____
Address _____ City _____ State/Province _____
Country _____ Postal Code _____ Phone _____ Offices/Positions Held _____
Supervisor / Contact _____

Beginning/Ending
Dates (MM/YY) _____ - _____ Employers'Name _____
Address _____ City _____ State/Province _____
Country _____ Postal Code _____ Phone _____ Offices/Positions Held _____
Supervisor / Contact _____

10. a. Have you ever been in a position which required a fidelity bond? _____ If any claims were made on the bond, give details. _____
b. Have you ever been denied an individual or position schedule fidelity bond, or had a bond canceled or revoked? If yes, give details. _____

11. List any professional, occupational and vocational licenses (including licenses to sell securities) issued by any public or governmental licensing agency or regulatory authority or licensing authority that you presently hold or have held in the past. For any non-insurance regulatory issuer, identify and provide the name, address and telephone number of the licensing authority or regulatory body having jurisdiction over the license (s) issued. Attach additional pages if the space provided is insufficient.

Organization/Issuer of License _____ Address _____
City _____ State/Province _____ Country _____ Postal Code _____
License Type _____ License # _____ Date Issued (MM/YY) _____
Date Expired (MM/YY) _____ Reason for Termination _____
Non-insurance Regulatory Phone Number (if known) _____

Organization /Issuer of License _____ Address _____
City _____ State/Province _____ Country _____ Postal Code _____
License Type _____ License # _____ Date Issued (MM/YY) _____
Date Expired (MM/YY) _____ Reason for Termination _____
Non-insurance Regulatory Phone Number (if known) _____

12. In responding to the following, if the record has been sealed or expunged, and the affiant has personally verified that the record was sealed or expunged, an affiant may respond "no" to the question. Have you ever:

a. Been refused an occupational, professional, or vocational license or permit by any regulatory authority, or any public administrative, or governmental licensing agency?

b. Had any occupational, professional, or vocational license or permit you hold or have held, been subject to any judicial, administrative, regulatory, or disciplinary action?

c. Been placed on probation or had a fine levied against you or your occupational, professional, or vocational license or permit in any judicial, administrative, regulatory, or disciplinary action? _____

d. Been charged with, or indicted for, any criminal offense(s) other than civil traffic offenses? _____

e. Pled guilty, or nolo contendere, or been convicted of, any criminal offense(s) other than civil traffic offenses?

f. Had adjudication of guilt withheld, had a sentence imposed or suspended, had pronouncement of a sentence suspended, or been pardoned, fined, or placed on probation, for any criminal offense(s) other than civil traffic offenses? _____

g. Been subject to a cease and desist letter or order, or enjoined, either temporarily or permanently, in any judicial, administrative, regulatory, or disciplinary action, from violating any federal, state law or law of another country regulating the business of insurance, securities or banking, or from carrying out any particular practice or practices in the course of the business of insurance, securities or banking? _____

h. Been, within the last ten (10) years, a party to any civil action involving dishonesty, breach of trust, or a financial dispute? _____

i. Had a finding made by the Comptroller of any state or the Federal Government that you have violated any provisions of small loan laws, banking or trust company laws, or credit union laws, or that you have violated any rule or regulation lawfully made by the Comptroller of any state or the Federal Government? _____

j. Had a lien, or foreclosure action filed against you or any entity while you were associated with that entity?

If the response to any question above is answered "Yes", please provide details including dates, locations, disposition, etc. Attach a copy of the complaint and filed adjudication or settlement as appropriate.

13. List any entity subject to regulation by an insurance regulatory authority that you control directly or indirectly. The term "control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or non-management services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent (10%) or more of the voting securities of any other person. _____

If any of the stock is pledged or hypothecated in any way, give details. _____

14. Do [Will] you or members of your immediate family individually or cumulatively subscribe to or own, beneficially or of record, 10% or more of the outstanding shares of stock of any entity subject to regulation by an insurance regulatory authority, or its affiliates? An "affiliate" of, or person "affiliated" with, a specific person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified. If the answer is "Yes", please identify the company or companies in which the cumulative stock holdings represent 10% or more of the outstanding voting securities.

If any of the shares of stock are pledged or hypothecated in any way, give details.

15. Have you ever been adjudged a bankrupt? _____

16. To your knowledge has any company or entity for which you were an officer or director, trustee, investment committee member, key management employee or controlling stockholder, had any of the following events occur while you served in such capacity? If yes, please indicate and give details. When responding to questions (b) and (c) affiant should also include any events within twelve (12) months after his or her departure from the entity.

a. Been refused a permit, license, or certificate of authority by any regulatory authority, or Governmental-licensing agency? _____

b. Had its permit, license, or certificate of authority suspended, revoked, canceled, non-renewed, or subjected to any judicial, administrative, regulatory, or disciplinary action (including rehabilitation, liquidation, receivership, conservatorship, federal bankruptcy proceeding, state insolvency, supervision or any other similar proceeding)? _____

c. Been placed on probation or had a fine levied against it or against its permit, license, or certificate of authority in any civil, criminal, administrative, regulatory, or disciplinary action? _____

Note: If an affiant has any doubt about the accuracy of an answer, the question should be answered in the positive and an explanation provided.

Dated and signed this _____ day of _____ at _____ I hereby certify under penalty of perjury that I am acting on my own behalf, and that the foregoing statements are true and correct to the best of my knowledge and belief.

(Signature of Affiant) _____ Date

State of _____ County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ By _____, and:

- who is personally known to me, or
 who produced the following identification: _____

[SEAL]

Notary Public

Printed Notary Name

My Commission Expires

BIOGRAPHICAL AFFIDAVIT
Supplemental Information

(Print or Type)

To the extent permitted by law, this affidavit will be kept confidential by the state insurance regulatory authority.

Full Name, Address, and telephone number of the present or proposed entity under which this biographical statement is being required (Do Not Use Group Names).

1. a. Affiant's Full Name (Initials Not Acceptable). _____
b. Maiden Name (if applicable) _____
2. Affiant's Social Security Number _____
3. Government Identification Number if not a U.S. Citizen _____
4. Foreign Student ID# (if applicable) _____
5. Date of Birth: (MM/DD/YY) _____ Place of Birth: City _____
State/Province _____ Country _____
6. Name of Affiant's Spouse (if applicable) _____
7. List your residences for the last ten (10) years starting with your current address, giving:

Beginning/Ending

Dates (MM/YY)	Address	City	State/ Province	Country	Postal Code

Dated and signed this _____ day of _____ at _____
I hereby certify under penalty of perjury that I am acting on my own behalf, and that the foregoing statements are true and correct to the best of my knowledge and belief.

(Signature of Affiant) _____
Date

State of _____ County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ By _____, and:

- who is personally known to me, or
- who produced the following identification: _____

[SEAL]

Notary Public

Printed Notary Name

My Commission Expires

DISCLOSURE AND AUTHORIZATION CONCERNING BACKGROUND REPORTS(All states except California, Minnesota and Oklahoma)

This Disclosure and Authorization is provided to you in connection with pending or future application(s) of _____[insert company name]("Company") for licensure or a permit to organize ("Application") with a department of insurance in one or more states within the United States. Company desires to procure a consumer or investigative consumer report (or both)("Background Reports") regarding your background for review by a department of insurance in any state where Company pursues an Application during the term of your functioning as, or seeking to function as, an officer, member of the board of directors or other management representative ("Affiant") of Company or of any business entities affiliated with Company ("Term of Affiliation") for which a Background Report is required by a department of insurance reviewing any Application. Background Reports requested pursuant to your authorization below may contain information bearing on your character, general reputation, personal characteristics, mode of living and credit standing. The purpose of such Background Reports will be to evaluate the Application and your background as it pertains thereto. To the extent required by law, the Background Reports procured under this Disclosure and Authorization will be maintained as confidential.

You may obtain copies of any Background Reports about you from the consumer reporting agency ("CRA") that produces them. You may also request more information about the nature and scope of such reports by submitting a written request to Company. To obtain contact information regarding CRA or to submit a written request for more information, contact _____[insert company's designated person, position, or department, address and phone].

Attached for your information is a "Summary of Your Rights Under the Fair Credit Reporting Act."

AUTHORIZATION: I am currently an Affiant of Company as defined above. I have read and understand the above Disclosure and by my signature below, I consent to the release of Background Reports to a department of insurance in any state where Company files or intends to file an Application, and to the Company, for purposes of investigating and reviewing such Application and my status as an Affiant. I authorize all third parties who are asked to provide information concerning me to cooperate fully by providing the requested information to CRA retained by Company for purposes of the foregoing Background Reports, except records that have been erased or expunged in accordance with law.

I understand that I may revoke this Authorization at any time by delivering a written revocation to Company and that Company will, in that event, forward such revocation promptly to any CRA that either prepared or is preparing Background Reports under this Disclosure and Authorization. This Authorization shall remain in full force and effect until the earlier of (i) the expiration of the Term of Affiliation, (ii) written revocation as described above, or (iii) twelve (12) months following the date of my signature below.

A true copy of this Disclosure and Authorization shall be valid and have the same force and effect as the signed original.

(Printed Full Name and Residence Address)

(Signature)

(Date)

State of _____ County of _____

The foregoing instrument was acknowledged before me this _____ day of _____ 20____ By _____, who is personally known to me, or _____ who produced the following identification:

[SEAL]

Notary Public

Printed Notary Name

My Commission Expires

DISCLOSURE AND AUTHORIZATION CONCERNING BACKGROUND REPORTS (Minnesota and Oklahoma)

This Disclosure and Authorization is provided to you in connection with pending or future application(s) of _____ [insert company name] ("Company") for licensure or a permit to organize ("Application") with a department of insurance in one or more states within the United States. Company desires to procure a consumer or investigative consumer report (or both) ("Background Reports") regarding your background for review by a department of insurance in any state where Company pursues an Application during the term of your functioning as, or seeking to function as, an officer, member of the board of directors or other management representative ("Affiant") of Company or of any business entities affiliated with Company ("Term of Affiliation") for which a Background Report is required by a department of insurance reviewing any Application. Background Reports requested pursuant to your authorization below may contain information bearing on your character, general reputation, personal characteristics, mode of living and credit standing. The purpose of such Background Reports will be to evaluate the Application and your background as it pertains thereto. To the extent required by law, the Background Reports procured under this Disclosure and Authorization will be maintained as confidential.

You may request more information about the nature and scope of Background Reports produced by any consumer reporting agency ("CRA") by submitting a written request to Company. You should submit any such written request for more information, to _____ [insert company's designated person, position, or department, address and phone].

Attached for your information is a "Summary of Your Rights Under the Fair Credit Reporting Act." You will be provided with a copy of any Background Report procured by Company if you check the box below.

- By checking this box, I request a copy of any Background Report from any CRA retained by Company, at no extra charge.

AUTHORIZATION: I am currently an Affiant of Company as defined above. I have read and understand the above Disclosure and by my signature below, I consent to the release of Background Reports to a department of insurance in any state where Company files or intends to file an Application, and to the Company, for purposes of investigating and reviewing such Application and my status as an Affiant. I authorize all third parties who are asked to provide information concerning me to cooperate fully by providing the requested information to CRA retained by Company for purposes of the foregoing Background Reports, except records that have been erased or expunged in accordance with law.

I understand that I may revoke this Authorization at any time by delivering a written revocation to Company and that Company will, in that event, forward such revocation promptly to any CRA that either prepared or is preparing Background Reports under this Disclosure and Authorization. This Authorization shall remain in full force and effect until the earlier of (i) the expiration of the Term of Affiliation, (ii) written revocation as described above, or (iii) twelve (12) months following the date of my signature below.

A true copy of this Disclosure and Authorization shall be valid and have the same force and effect as the signed original.

_____ (Printed Full Name and Residence Address)

_____ (Signature)

_____ (Date)

State of _____ County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ By _____, who is personally known to me, or _____ who produced the following identification:

[SEAL]

Notary Public

Printed Notary Name

My Commission Expires

DISCLOSURE AND AUTHORIZATION CONCERNING BACKGROUND REPORTS (California)

This Disclosure and Authorization is provided to you in connection with a pending application of _____[insert company name]("Company") for licensure or a permit to organize ("Application") with a department of insurance in one or more states within the United States. Company desires to procure a consumer or investigative consumer report (or both)("Background Reports") regarding your background for review by any department of insurance in such states where Company is currently pursuing an Application, because you are either functioning as, or are seeking to function as, an officer, member of the board of directors or other management representative ("Affiant") of Company or of any business entities affiliated with Company ("Term of Affiliation") for which a Background Report is required by a department of insurance reviewing any Application. Background Reports will be obtained through _____[insert name of CRA, address]("CRA"). Background Reports requested pursuant to your authorization below may contain information bearing on your character, general reputation, personal characteristics, mode of living and credit standing. The purpose of such Background Reports will be to evaluate the Application and your background as it pertains thereto. To the extent required by law, the Background Reports procured under this Disclosure and Authorization will be maintained as confidential .

You may request more information about the nature and scope of Background Reports produced by any consumer reporting agency ("CRA") by submitting a written request to Company. You should submit any such written request for more information, to _____[insert company's designated person, position, or department, address and phone].

Attached for your information is a "Summary of Your Rights Under the Fair Credit Reporting Act." You will be provided with a copy of any Background Report procured by Company if you check the box below.

By checking this box, I request a copy of any Background Report from any CRA retained by Company, at no extra charge.

Under section 1786.22 of the California Civil Code, you may view the file maintained on you by the CRA listed above. You may also obtain a copy of this file, upon submitting proper identification and paying the costs of duplication services, by appearing at the CRA in person or by mail; you may also receive a summary of the file by telephone. The CRA is required to have personnel available to explain your file to you and the CRA must explain to you any coded information appearing in your file. If you appear in person, you may be accompanied by one other person of your choosing, provided that person furnishes proper identification.

AUTHORIZATION: I am currently an Affiant of Company as defined above. I have read and understand the above Disclosure and by my signature below, I consent to the release of Background Reports to a department of insurance in any state where Company files or intends to file an Application, and to the Company, for purposes of investigating and reviewing such Application and my status as an Affiant. I authorize all third parties who are asked to provide information concerning me to cooperate fully by providing the requested information to CRA retained by Company for purposes of the foregoing Background Reports, except records that have been erased or expunged in accordance with law.

I understand that I may revoke this Authorization at any time by delivering a written revocation to Company and that Company will, in that event, forward such revocation promptly to any CRA that either prepared or is preparing Background Reports under this Disclosure and Authorization. In no event, however, will this authorization remain in effect beyond twelve (12) months following the date of my signature below.

A true copy of this Disclosure and Authorization shall be valid and have the same force and effect as the signed original.

(Printed Full Name and Residence Address)

(Signature)

(Date)

State of _____ County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20_____. By _____, who is personally known to me, or _____ who produced the following identification:

[SEAL]

Notary Public

Printed Notary Name

My Commission Expires

CHAPTER 14

INSURANCE PREMIUM FINANCE COMPANIES

Part 1

General Provisions

33-14-101. Short title. This chapter may be cited as the "Insurance Premium Finance Company Act".

History: En. Sec. 1, Ch. 360, L. 1981.

33-14-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Insurance premium finance company" means a person engaged in the business of entering into premium finance agreements with insureds or of acquiring such premium finance agreements from insurance producers, brokers, or other premium finance companies.

(2) "Licensee" means a premium finance company holding a license issued by the commissioner under this chapter.

(3) "Premium finance agreement" means an agreement by which an insured or prospective insured promises to pay to a premium finance company the amount advanced or to be advanced under the agreement to an insurer or to an insurance producer or broker in payment of premiums on an insurance contract, together with a finance charge as authorized by this chapter, and as security therefor the insurance premium finance company receives an assignment of the unearned premium.

(4) "Unearned premium" means that part of the original premium, including a deposit, not yet earned by the insurer and therefore due the insured if a policy is canceled.

History: En. Sec. 2, Ch. 360, L. 1981; amd. Sec. 1, Ch. 123, L. 1987; amd. Sec. 1, Ch. 713, L. 1989.

Part 2

Licensing

33-14-201. License required -- fee -- renewal of license. (1) Except as provided in subsection (4), a person may not engage in the business of financing insurance premiums without first having obtained a license as a premium finance company from the commissioner. Any person who engages in the business of financing insurance premiums in the state without obtaining a license as provided under this chapter is, upon conviction, guilty of a misdemeanor.

(2) The annual license fee is \$100. A license may be renewed as of January 1 each year, upon payment of the fee of \$100. The license fee must be paid to the commissioner.

(3) The person to whom the license or the renewal of the license is issued shall file sworn answers, subject to the penalties of perjury, to any interrogatories as the commissioner may require. The commissioner may, at any time, require the applicant fully to disclose the identity of all stockholders, partners, officers, and employees, and the commissioner may, in the commissioner's discretion, refuse to issue or renew a license in the name of any firm, partnership, or corporation if not satisfied that any officer, employee, stockholder, or partner who may materially influence the applicant's conduct meets the standards of this chapter.

(4) This section does not apply to and a license is not required of:

(a) savings and loan associations, banks, trust companies, licensed finance companies, credit unions, and resident insurance producers; or

(b) a person who, within 15 days after entering into an insurance premium finance agreement, transfers the agreement to a licensee or to any of the organizations exempt under this subsection (4).

History: En. Sec. 3, Ch. 360, L. 1981; amd. Sec. 1, Ch. 713, L. 1989; amd. Sec. 16, Ch. 451, L. 1993.

33-14-202. Applicant qualifications -- hearing. (1) Upon the filing of an application and the payment of the license fee, the commissioner may make a background examination of each applicant and shall issue a premium finance company license if the applicant is qualified in accordance with this chapter. If the commissioner denies the application, the applicant may file a written demand for a hearing pursuant to the provisions of 33-1-701.

(2) The commissioner shall issue or renew a license when the commissioner is satisfied that the person to be licensed:

(a) is competent and trustworthy and intends to act in good faith in the capacity involved by the license applied for;

(b) has a good business reputation and has had experience, training, or education that qualifies the applicant in the business for which the license is applied; and

(c) if a corporation, is a corporation incorporated under the laws of the state or is a foreign corporation authorized to transact business in the state.

History: En. Sec. 4, Ch. 360, L. 1981; amd. Sec. 40, Ch. 227, L. 2001.

33-14-203. License revocation -- suspension. The commissioner may revoke or suspend the license of a premium finance company when and if after investigation it appears to the commissioner that:

- (1) a license issued to the company was obtained by fraud;
- (2) there was misrepresentation in the application for the license;
- (3) the holder of the license has otherwise shown himself untrustworthy or incompetent to act as a premium finance company; or
- (4) the company has violated any provisions of this chapter.

History: En. Sec. 5, Ch. 360, L. 1981.

33-14-204. Records required of licensees -- form -- inspection. (1) Every premium finance company shall maintain records of its premium finance transactions, and the records shall be open to examination and investigation by the commissioner. The commissioner may at any time require the company to bring such records as he may direct to the commissioner's office for examination.

(2) Every premium finance company shall preserve its records of premium finance transactions for at least 3 years after making the final entry in respect to any premium finance agreement. The records may be preserved in photographic form.

History: En. Sec. 6, Ch. 360, L. 1981.

Part 3

Operation and Regulation

33-14-301. Premium finance agreements -- contents -- form -- delivery. (1) A premium finance agreement shall:

- (a) be dated, signed by the insured or by any person authorized in writing to act in behalf of the insured, and the printed portion thereof shall be in at least 8-point type;
- (b) contain the name and place of business of the insurance producer negotiating the related insurance policy, the name and residence or the place of business of the insured as specified by him, the name and place of business of the premium finance company to which payments are to be made, and a description of the insurance policies involved and the amount of the premium therefor; and
- (c) set forth when applicable:
 - (i) the total amount of the premiums;
 - (ii) the amount of the downpayment;
 - (iii) the principal balance (the difference between the items enumerated in subsections (1)(c)(i) and (1)(c)(ii));
 - (iv) the amount of the finance charge;
 - (v) the balance payable by the insured (the sum of the items enumerated in subsections (1)(c)(iii) and (1)(c)(iv)); and
 - (vi) the number of installments required, the amount of each installment expressed in dollars, and the due date or period thereof.

(2) The items set out in subsection (1)(c) need not be stated in the sequence or order in which they appear in that subsection, and additional items may be included to explain the computations made in determining the amount to be paid by the insured.

(3) The information required by subsection (1) may only be required in the initial agreement if the premium finance company and the insured enter into an open-end credit transaction, which is defined as a plan prescribing the terms of credit transactions that may be made thereunder from time to time and under the terms of which a finance charge may be computed on the outstanding unpaid balance from time to time thereunder.

(4) The premium finance company or the insurance producer shall deliver to the insured or mail to him at his address shown in the agreement a complete copy of the agreement.

History: En. Sec. 7, Ch. 360, L. 1981; amd. Sec. 1, Ch. 713, L. 1989.

33-14-302. Charges for premium financing regulated -- method of computation. (1) A premium finance company may not charge, contract for, receive, or collect a finance charge other than as permitted by this chapter.

(2) The finance charge must be computed on the balance of the premiums due (after subtracting the downpayment made by the insured in accordance with the premium finance agreement) from the effective date of the insurance coverage for which the premiums are being advanced to and including the date when the final payment of the premium finance agreement is payable.

(3) Notwithstanding any other provision of law, the finance charge may not exceed interest at the annual rate of 21%, plus a service charge of \$12.50 per premium finance agreement. The service charge of \$12.50 need not be refunded upon cancellation or prepayment.

(4) An insured may prepay his premium finance agreement in full at any time prior to the due date of the final payment and in such event the unearned finance charge shall be refunded.

History: En. Sec. 8, Ch. 360, L. 1981.

33-14-303. Delinquency charges regulated. (1) A premium finance agreement may provide for the payment by the insured of a delinquency charge of \$1 to a maximum of 5% of the delinquent installment but not to exceed \$5 on any installment that is in default for 5 days or more.

(2) If the default results in the cancellation of any insurance contract listed in the agreement, the agreement may provide for payment by the insured of a cancellation charge equal to the difference between any delinquency charge or default charge imposed with respect to the installment in default and \$5. A premium finance agreement may also provide for the payment of attorney's fees and court costs if the agreement is referred for collection to an attorney not a salaried employee of the insurance premium finance company.

History: En. Sec. 9, Ch. 360, L. 1981.

33-14-304. Cancellation of insurance upon default. (1) When a premium finance agreement contains a power of attorney or other authority enabling the insurance premium finance company to cancel any insurance contract listed in the agreement, the insurance contract or contracts may not be canceled by the premium finance company unless the cancellation is effectuated in accordance with this section.

(2) Written notice must be mailed to the insured setting forth the intent of the insurance premium finance company to cancel the insurance contract unless the default is cured prior to the date stated in the notice. The written notice must be mailed at least 10 days prior to the date stated in the notice. The insurance producer indicated on the premium finance agreement must also be mailed 10 days' notice of this action.

(3) Pursuant to the power of attorney or other authority referred to above, the insurance premium finance company may cancel on behalf of the insured by mailing to the insurer written notice stating when the cancellation will become effective, and the insurance contract must be canceled as if the notice of cancellation had been submitted by the insured but without requiring the return of the insurance contract. If the insurer or its insurance producer does not provide the insurance premium finance company with a specific mailing address for the purpose of receipt of the notice, mailing by the insurance premium finance company to the insurer at the address that is on file with the commissioner is considered sufficient notice under this section. The insurance premium finance company shall also mail a notice of cancellation to the insured at the insured's last-known address and to the insurance producer indicated on the premium finance agreement.

(4) All statutory, regulatory, and contractual restrictions providing that the insurance contract may not be canceled unless notice is given to a governmental agency, mortgagee, or other third party apply whenever cancellation is effected under the provisions of this section. The insurer shall give the prescribed notice in behalf of itself or the insured to any governmental agency, mortgagee, or other third party on or before the second business day after the day it receives the notice of cancellation from the premium finance company and shall determine the effective date of cancellation taking into consideration the number of days' notice required to complete the cancellation.

History: En. Sec. 10, Ch. 360, L. 1981; amd. Sec. 1, Ch. 713, L. 1989; amd. Sec. 44, Ch. 379, L. 1995.

33-14-305. Return of unearned premiums. (1) Whenever a financed insurance contract is canceled by a person other than the insured, the insurer shall process cancellation of the financed insurance policy on a pro rata basis. The insurer shall return whatever gross unearned premiums are due under the insurance contract to the premium finance company for the account of the insured or insureds.

(2) If the crediting of the return premiums to the account of the insured results in a surplus over the amount due from the insured, the premium finance company shall refund the excess to the insured, except that a refund is not required if the excess amounts to less than \$1.

History: En. Sec. 11, Ch. 360, L. 1981; amd. Sec. 2, Ch. 123, L. 1987; amd. Sec. 17, Ch. 451, L. 1993.

33-14-306. Agreement effective as security interest. No filing of the premium finance agreement or recording of a premium finance transaction shall be necessary to perfect the validity of the agreement as a secured transaction as against creditors, subsequent purchasers, pledgees, encumbrancers, successors, or assigns.

History: En. Sec. 12, Ch. 360, L. 1981.

33-14-307. Exceptions. This chapter does not apply to any insurance company or insurance companies affiliated under the same management and control authorized to do business in this state which provide installment premium payments programs at no interest to policyholders or to an insurance producer licensed to do business in this state on policies written by the insurance producer or issued by the company or companies.

History: En. Sec. 13, Ch. 360, L. 1981; amd. Sec. 1, Ch. 713, L. 1989.