

1969 Assembly Bill 311

Date published:  
March 20, 1970

**CHAPTER 485, LAWS OF 1969**

AN ACT to create 200.13 (1) (h) and 200.50 of the statutes, relating to the licensing and regulation of insurance premium finance companies, granting rule-making authority and providing penalties.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 200.13 (1) (h) of the statutes is created to read:

200.13 (1) (h) Insurance premium finance companies, \$400.

SECTION 2. 200.50 of the statutes is created to read:

200.50 INSURANCE PREMIUM FINANCE COMPANIES. (1) DEFINITIONS. For purposes of this section:

(a) "Insurance premium finance company" means a person engaged in the business of entering into insurance premium finance agreements.

(b) "Premium finance agreement" means an agreement by which an insured or prospective insured promises to pay to an insurance pre-

mium finance company the amount advanced or to be advanced under the agreement to an insurer or to an insurance agent or broker in payment of premiums on an insurance contract together with a service charge as authorized and limited by this chapter.

(c) "Licensee" means an insurance premium finance company holding a license issued by the commissioner under this section.

(d) "Commissioner" means the commissioner of insurance.

(2) SCOPE. This section shall not apply to:

(a) Any insurance company or agent defined in s. 209.04, any savings and loan association, sales finance company, motor vehicle instalment seller, bank, trust company, licensed lender or credit union authorized to do business in this state, but such organizations, if otherwise eligible, are exempt from the licensing under this section, but subs. (9) to (11) and any rules promulgated by the commissioner pertaining to such subsections shall be applicable to all premium finance transactions entered into by such organizations in this state if an insurance policy or any rights thereunder is made the security or collateral for repayment of the debt.

(b) The inclusion of insurance in connection with an instalment sale of a motor vehicle or other goods and services.

(c) The financing of insurance premiums in this state under s. 138.04 or 138.05.

(d) The kinds of insurance defined under s. 201.04 (3).

(3) LICENSES. (a) No person except those listed in sub. (2) (a) shall engage in the business of financing insurance premiums in this state without first having obtained a license. Any person who engages in the business of financing insurance premiums in this state without obtaining a license may be fined not more than \$200.

(b) The annual license fee is \$400 and shall be paid to the commissioner pursuant to s. 200.13 (1) (h). Licenses may be renewed May 1 of each year upon payment of the fee of \$400. The fee for the license shall be paid to the commissioner for use of the state.

(c) The person to whom the license or the renewal thereof is issued shall file sworn answers, subject to the penalties of perjury, to such interrogatories as the commissioner requires. The commissioner may, at any time, require the applicant fully to disclose the identity of all stock holders, partners, officers and employes, and he may refuse to issue or renew a license in the name of any person if he is not satisfied that any officer, employe, stockholder or partner thereof, who may materially influence the applicant's conduct, meets the standards of this section.

(4) INVESTIGATION. (a) Upon the filing of an application and the payment of the license fee, the commissioner shall make an investigation of each applicant and shall issue a license if he finds the applicant is qualified in accordance with this section. If the commissioner does not so find, he shall, within 30 days after he has received such application, so notify the applicant and at the request of the applicant, give the applicant a full hearing.

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

1. Is competent and trustworthy and intends to act in good faith in the capacity involved by the license applied for,

2. Has a good business reputation and has had experience, training or education so as to be qualified in the business for which the license is applied for, and

3. If a corporation, is a corporation incorporated under the laws of this state or a foreign corporation authorized to transact business in this state.

(5) REVOCATION OR SUSPENSION. (a) The commissioner may revoke or suspend the license of any insurance premium finance company if the commissioner finds that:

1. Any license issued to such company was obtained by fraud,
2. There was any misrepresentation in the application for the license,
3. The holder of such license has otherwise shown himself untrustworthy or incompetent to act as a premium finance company,
4. Such company has violated any provision of this section, or
5. Such company has been rebating part of the service charge as allowed and permitted herein to any insurance agent or insurance broker or any employe of an insurance agent or insurance broker or to any other person as an inducement to the financing of any insurance policy with the premium finance company.

(b) Before the commissioner revokes, suspends or refuses to renew the license of any premium finance company, he shall give such person an opportunity to be fully heard and to introduce evidence in his behalf. In lieu of revoking or suspending the license for any of the causes enumerated in this subsection, after hearing, the commissioner may subject such company to a penalty of not more than \$200 for each offense when in his judgment he finds that the public interest would not be harmed by the continued operation of such company. The amount of any such penalty shall be paid by the company to the commissioner for the use of the state. At any hearing under this subsection, the commissioner may administer oaths to witnesses. Anyone testifying falsely, after having been administered such oath, shall be subject to the penalty of perjury.

(c) Any action of the commissioner in refusing to issue or renew a license shall be subject to review under ss. 227.01 to 227.26.

(6) RECORDS. (a) Every licensee shall maintain records of its premium finance transactions and the records shall be open to an examination and investigation by the commissioner. The commissioner shall have the power to make an examination of the books, records and accounts of any licensee as he deems necessary. The expenses incurred in making any such examination shall be assessed against and paid by the licensee so examined. The commissioner may, at any time, require any licensee to bring such records as he directs to the commissioner's office for examination.

(b) Every licensee shall preserve its records of such premium finance transactions, including cards used in a card system, for at least 3 years after making the final entry in respect to any premium finance agreement. The preservation of records in photographic form shall constitute compliance with this requirement.

(7) RULES AND REGULATIONS. The commissioner may make and enforce such reasonable rules as are necessary to carry out this section, but such rules shall not be contrary to nor inconsistent with this section.

(8) PREMIUM FINANCE AGREEMENTS. (a) A premium finance agreement shall:

1. Be dated, signed by or on behalf of the insured, and the printed portion thereof shall be in at least 8-point type,
2. Contain the name and place of business of the insurance agent or insurance broker negotiating the related insurance contract, 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 instalment or other payments are to be made, a description of the insurance contracts, including term and type of policy, the premiums for which are advanced or to be advanced under the agreement and the amount of the premiums therefor; and
3. Set forth the following items where applicable:

- a. The total amount of the premiums,
- b. The amount of the down payment,
- c. The principal balance (the difference between items a and b),
- d. The amount of the service charge,
- e. The balance payable by the insured (sum of items c and d),
- f. The number of instalments required, the amount of each instalment expressed in dollars, and the due date or period thereof.

(b) The items set forth in subd. 3 need not be stated in the sequence or order in which they appear and additional items may be included to explain the computations made in determining the amount to be paid by the insured.

(9) SERVICE CHARGES. A premium finance company shall not charge, contract for, receive or collect a service charge other than as permitted by this section.

(a) The service charge shall be computed on the balance of the premiums due (after subtracting the down payment 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 instalment of the premium finance agreement is payable.

(b) The service charge shall be a maximum of \$6 per \$100 per year plus an additional charge of \$10 per premium finance agreement, but, if the principal balance is \$50 or less there shall be no additional charge, and if the principal balance is more than \$50 but not more than \$100, the additional charge is \$6.

(c) The service charge shall be computed on the principal balance of a premium finance agreement payable in successive monthly instalments substantially equal in amount for a period of one year. On a premium finance agreement providing for instalments extending for a period less than or greater than one year, the service charge shall be computed proportionately.

(d) Notwithstanding the provisions of any premium finance agreement, any insured may prepay the obligation in full at any time. In such event he shall receive a refund credit. The amount of such refund credit shall represent at least as great a proportion of the service charge as the sum of the periodic balances after the month in which prepayment is made bears to the sum of all periodic balances under the schedule of instalments in the agreement. Where the amount of the refund credit is less than \$1, no refund need be made. If in addition to the service charge an additional charge was imposed, such additional charge need not be refunded nor taken into consideration in computing the refund credit.

(10) DELINQUENCY OR DEFAULT CHARGE. A premium finance agreement may provide for the payment by the insured of a delinquency or default charge of \$1 to a maximum of 5% of the delinquent instalment but not to exceed \$5 on any instalment which is in default for a period of 5 days or more. If the default results in the cancellation of any insurance contract listed in the agreement, the agreement may provide for the payment by the insured of a cancellation charge equal to the difference between any delinquency or default charge imposed in respect to the instalment in default and \$5. A premium finance agreement may also provide for the payment of statutory attorneys' fees and statutory court costs if the agreement is referred for collection to an attorney not a salaried employe of the insurance premium finance company.

(11) CANCELLATION. 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 following applies:

(a) Not less than 10 days' written notice shall be mailed to the insured of 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 insurance agent or insurance broker indicated on the premium finance agreement shall also be mailed 10 days' notice of such action.

(b) 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 thereafter the cancellation shall be effective, and the insurance contract shall be canceled as if such notice of cancellation had been submitted by the insured himself, but without requiring the return of the insurance contract. The insurance premium finance company shall also mail a notice of cancellation to the insured at his last known address and to the insurance agent or insurance broker indicated on the premium finance agreement. Compliance by the premium finance company with the provisions of the premium finance agreement or par. (a), shall not be a condition of effective cancellation hereunder.

(c) Where statutory, regulatory or contractual restrictions provide that the insurance contract may not be canceled unless notice is given to a governmental agency, mortgagee or other 3rd party, the insurer shall give the prescribed notice on behalf of itself or the insured to such governmental agency, mortgagee or other 3rd party within a reasonable time after the day it receives the notice of cancellation from the premium finance company. When the above restrictions require the continuation of insurance beyond the effective date of cancellation specified by the premium finance company such insurance shall be limited to the coverage to which such restrictions relate and to the persons they are designed to protect.

(d) Whenever a financed insurance contract is canceled the insurer shall return whatever unearned premiums are due under the insurance contract to the insurance premium finance company for the account of the insured, and such action by the insurer shall be deemed to satisfy the insurer's obligations under the insurance contract which relate to the return of unearned premiums. If the crediting of 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 such excess to the insured but no such refund shall be required if it amounts to less than \$1.

(12) **NO FILING NECESSARY.** No filing of the premium finance agreement or recording of a premium finance transaction shall be necessary to perfect the validity of such agreement as a secured transaction as against creditors, subsequent purchasers, pledgees, encumbrancers, successors or assigns.

(13) **ESTABLISHED INSURANCE PREMIUM FINANCE COMPANIES.** Any person or corporation engaged in the business of an insurance premium finance company on the effective date of this section (1969) may continue in operation under this section but shall obtain a license by January 1, 1970.

**SECTION 3.** This act shall take effect 60 days after passage and publication.

Approved March 2, 1970.

---