

PREMIUM FINANCE COMPANIES

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364.100. Definitions. - As used in sections 364.100 to 364.160, the following terms shall mean:

(1) **"Director"**, the director of the division of finance of the state of Missouri;

(2) **"Person"**, an individual, partnership, association, business corporation, nonprofit corporation, common law trust, joint-stock company, or any other group of individuals, however organized;

(3) **"Premium finance agreement"**, an agreement by which an insured or prospective insured promises to pay to a premium finance company the amount advanced or to be advanced to an insurer or to an insurance agent or broker in payment of premiums of an insurance contract together with interest or discount and a service charge, as authorized and limited by sections 364.100 to 364.160;

(4) **"Premium finance company"**, a person engaged in the business of entering into premium finance agreements or acquiring premium finance agreements from other premium finance companies.

(L. 1984 S.B. 636 § 1)

364.105. Registration required - fee - forms. - 1. No person shall engage in the business of a premium finance company in this

state without first registering as a premium finance company with the director.

2. The annual registration fee shall be five hundred dollars payable to the director as of the first day of July of each year. The director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time.

3. Registration shall be made on forms prepared by the director and shall contain the following information:

(1) Name, business address and telephone number of the premium finance company;

(2) Name and business address of corporate officers and directors or principals or partners;

(3) A sworn statement by an appropriate officer, principal or partner of the premium finance company that:

(a) The premium finance company is financially capable to engage in the business of insurance premium financing; and

(b) If a corporation, that the corporation is authorized to transact business in this state;

(4) If any material change occurs in the information contained in the registration form, a revised statement shall be submitted to the director accompanied by an additional fee of three hundred dollars.

(L. 1984 S.B. 686 § 2, A.L. 1986 H.B. 1195, A.L. 2003 S.B. 346, A.L. 2015 H.B. 587 merged with S.B. 345)

364.110. Records to be maintained by company. - 1. A premium finance company shall maintain records of its premium finance transactions.

2. A premium finance company shall preserve its records of premium finance transactions, including cards used in a card system, if any, for at least two years after making the final entry with respect to any premium finance agreement. The preservation of records in photographic, microfilm or microfiche form constitutes compliance with this section.

(L. 1984 S.B. 686 § 3)

364.115. Premium finance agreement, requirements, contents. - A premium finance agreement shall:

(1) Be dated and signed by or on behalf of the insured, and the printed portion thereof shall be in at least eight point type;

(2) Contain the name and place of

business of the insurance agent or broker negotiating the related insurance contract, the name and residence or place of business of the insured, the name and place of business of the premium finance company to which payments are to be made, a brief description of the insurance contracts involved and the amount of premium; and

(3) Set forth the following items, where applicable:

(a) The total amount of the premium;
(b) The amount of the down payment;
(c) The principal balance, meaning the difference between the amounts stated under paragraphs (a) and (b) of this subdivision;

(d) The amount of the interest or discount;

(e) The balance payable by the insured, meaning the sum of amounts stated under paragraphs (c) and (d) of this subdivision; and

(f) The number of installments required, the amount of each installment expressed in dollars, and the due date or period thereof.

(L. 1984 S.B. 686 § 4)

364.120. Interest or discount, amount allowed, computation - prepayment of obligation - refund credit, calculation. - 1. A

premium finance company shall not charge, contract for, receive, or collect any interest or discount charge other than as permitted by sections 364.100 to 364.160.

2. The interest or discount is to 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 contract, for which the premiums are being advanced, to and including the date when the final installment of the premium finance agreement is payable.

3. The interest or discount shall be a maximum of fifteen dollars per one hundred dollars per year, which shall be computed as a fifteen percent add-on interest rate, plus an additional service charge of ten dollars per premium finance agreement which need not be refunded on cancellation or prepayment; except that, if the insurance premiums being financed are for other than personal, family or household purposes, the parties to the premium finance agreement may agree to any rate of interest which shall be stated in the premium finance agreement. The interest or discount permitted by this subsection anticipates timely repayment in consecutive monthly installments equal in amount

for a period of one year. For repayment in greater or lesser periods or in unequal, irregular, or other than monthly installments, the interest or discount may be computed at an equivalent effective rate having due regard for the timely payments of installments.

4. Notwithstanding the provisions of any premium finance agreement, any insured may prepay the obligation in full at any time and shall receive a refund credit. The amount of the refund shall be calculated by the actuarial method of calculating refunds and no more interest shall be retained by the lender than is actually earned.

(L. 1984 S.B. 686 § 5, A.L. 1986 H.B. 1207, A.L. 2002 S.B. 895)

364.125. Other charges allowed. - 1.

A premium finance agreement may provide for the payment by the insured of a delinquency charge of up to five percent of any installment which is in default for a period of five days or more. If the premium finance agreement is for personal, family or household purposes, the then maximum delinquency charge shall be fifteen dollars. 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 of fifteen dollars.

2. A premium finance agreement may provide for payment of collection costs and attorney's fees equal to twenty percent of the outstanding indebtedness if the premium finance agreement is referred for collection to a collection agency or attorney who are not salaried employees of the premium finance company.

3. None of the charges referred to in this section shall be considered, directly or indirectly, in determining whether a violation of the usury laws has occurred under a premium finance agreement.

(L. 1984 S.B. 686 § 6)

364.130. Cancellation of finance contract under power of attorney - requirements, procedure. - 1. When a premium

finance agreement contains a power of attorney clause enabling the premium finance company to cancel any insurance contract or contracts listed in the agreement, the insurance contract or contracts shall not be canceled by the premium finance company unless such cancellation is done in accordance with this section.

2. Not less than ten days' written notice shall be mailed to the insured, at the last known address shown on the records of the premium finance company, of the intent of the premium finance company to cancel the

insurance contract unless the default is cured within such ten-day period.

3. After expiration of such ten-day period, the premium finance company may thereafter cancel such insurance contract or contracts by mailing to the insurer a notice of cancellation. The insurance contract shall be canceled as if such notice of cancellation had been submitted by the insured, but without requiring the return of the insurance contract or contracts. The premium finance company shall also mail a copy of the notice of cancellation to the insured at the last known address shown on the records of the premium finance company.

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 shall apply where cancellation is effected under the provisions of this section. The insurer shall give the prescribed notice on 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.

(L. 1984 S.B. 686 § 7)

364.135. Return of unearned premiums on cancellation of financed contract - time allowed.

- Whenever a financed insurance contract is canceled, the insurer shall return whatever gross unearned premiums are due under the insurance contract directly to the premium finance company for the account of the insured or insureds as soon as reasonably possible, but in no event later than sixty days after the effective date of cancellation. In the event that 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, provided that no such refund shall be required if it amounts to less than one dollar.

(L. 1984 S.B. 686 § 8)

364.140. Filing of agreement not required for validity against creditors.

- No filing of the premium finance agreement shall be necessary to perfect the validity of such agreement as a secured transaction as against creditors, subsequent purchasers, pledgees, encumbrancers, trustees in bankruptcy or any other insolvency proceedings under any law, or

anyone having the status or power of the aforementioned or their successors or assigns.

(L. 1984 S.B. 686 § 9)

364.145. Revenue deposited to state general revenue fund.

- All revenues collected by or paid to the director under the provisions of sections 364.100 to 364.160 shall be forwarded immediately to the director of revenue, who shall deposit them in the general revenue fund.

(L. 1984 S.B. 686 § 10)

364.150. Application of law.

- The licensing provisions of sections 364.100 to 364.160 shall not apply to any insurance agent or insurance broker licensed to do business in this state. Nor shall the provisions of sections 364.100 to 364.160 apply to insurance premiums financed in connection with credit transactions.

(L. 1984 S.B. 686 § 11)

364.160. Violation of law -

misdemeanor. - Any premium finance company willfully and knowingly violating the provisions of sections 364.100 to 364.160 shall be guilty of a class A misdemeanor.

(L. 1984 S.B. 686 § 13)