

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2214

SPONSOR: Banking and Insurance Committee and Senator Holzendorf

SUBJECT: Premium Financing by an Insurer or Subsidiary

DATE: March 12, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Emrich</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Favorable/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Under current law, consumers may finance their insurance premiums through premium finance companies, insurance carriers, or agents.¹ Under this financial arrangement, the financing entity advances money to the consumer in the form of payment of premiums on an insurance contract. In turn, the consumer promises to pay to the financing entity the amount advanced, as well as a service charge or interest payment that is authorized and limited by law. Premiums may be paid in installments through a premium finance company or an installment plan set up by an insurer or agent. However, premium finance companies, unlike insurers or agents, may charge consumers additional fees and charges in relation to installment payment plans.

Committee Substitute for Senate Bill 2214 would allow insurance companies² to charge other fees and charges that premium finance companies are currently authorized to charge, but without having to be separately licensed as a premium finance company. These fees and charges include: a delinquency and collection charge of up to \$10 or 5 percent of the delinquent amount, whichever is greater; attorney's fees under certain circumstances; insufficient fund fees of \$15; and, one-half of a fixed set-up fee. The fixed set-up fee presently authorized by statute is \$20 and this bill would allow insurers to charge \$10.

The bill also provides an alternative to the current method of calculating and billing interest charges when premiums are financed by an insurance agent, agency, or company. Interest could be charged, as provided in current law,³ on the unpaid balance, or, in the alternative, interest could be charged on the average unpaid balance as billed over the term of the policy and subject

¹ Under s. 627.901, F.S., insurance agencies may offer premium financing as well.

² Under current law, insurers includes subsidiaries of insurers or corporations under substantially the same management or control as authorized insurers.

³ The current interest rate is 18 percent.

to endorsement changes. Further, the authorized interest may be billed in equal installments. This provision thus allows for equal monthly interest charges as an alternative to a declining interest rate charge, however, the total amount of interest paid under both methods would be the same.

This bill substantially amends ss. 627.901 and 627.902 of the Florida Statutes.

II. Present Situation:

Under current law, consumers may finance their insurance premiums through premium finance companies, insurance carriers, agents or agencies. Under this financial arrangement, the financing entity advances money to the consumer in the form of payment of premiums on an insurance contract. In turn, the consumer promises to pay to the financing entity the amount advanced, as well as a service charge or interest payment that is authorized and limited by law. Premiums may be paid in installments through a premium finance company or an installment plan set up by an insurer or agent. However, premium finance companies, unlike insurers or agents, may charge consumers additional fees and charges in relation to installment payment plans. The current charges allowed under premium financing arrangements are illustrated under Table 1.

Table 1

	Premium Finance Company⁴	Agent or Agency⁵	Insurance Company⁶
Licensure as premium finance company	Required.	Not required, unless total service charge or interest exceeds allowed charge or rate, see below.	Not required, unless charging “substantially” more than fees or interest allowed to agents and agencies.
Interest charges	No provision; service charge and other fees, only.	18 percent simple interest per year on unpaid balance, in lieu of allowed service charge.	Not “substantially” more than that allowed agents or agencies.
Service charges	\$12 per \$100 of premium financed, per year.	Not more than \$1 per installment, or: \$6 per year on premiums of \$120 or less; \$9 per year on premiums between \$120 and \$220; \$12 per year on premiums over \$220.	Not “substantially” more than that allowed agents or agencies.
Other fees	“Set up” charge – \$20, once annually. Delinquency or collection charge – \$10 or 5 percent, whichever is greater. ⁷ Attorney’s fees – not to exceed 20 percent. Insufficient funds – \$15.	Not authorized.	Not authorized.

⁴ Part XV, Ch. 627, F.S.

⁵ Part XVI, Ch. 627, F.S.

⁶ Id.

⁷ The maximum delinquency charge is \$10 in the case of premium financing on primarily personal, family, or household goods. S. 627.841, F.S.

As noted under Table 1, insurance agents, agencies, and insurers, which are not licensed as premium finance companies, may assess consumers reasonable service charges for financing insurance premiums on policies issued. In lieu of a service charge, an agent or insurer may charge a rate of interest not to exceed 18 percent simple interest per year on the unpaid balance. In the event an agent’s or agency’s service charge or rate of interest is more than the amounts authorized above, the agent is subject to Part XV of ch. 627, F.S., which provides for the regulation of premium finance companies by the Department of Insurance and also authorizes the Department to impose penalties for excessive premium finance charges.⁸ Further, if an insurer or a subsidiary of an insurer finances property, casualty, surety, and marine insurance premiums on policies issued or business produced by such insurer, and their total service charge or rate of interest is *substantially more* than the amounts noted above, the insurer is also subject to part XV of ch. 627, F.S.

A premium finance company advances money to an insured in the form of payment of premiums on an insurance contract.⁹ The premium finance agreement is a written agreement by which an insured promises to pay to a premium finance company the amount advanced, as well as a service charge that is authorized and limited by law. On a retail level, premium finance companies are typically involved in lending consumers money in order to pay for automobile insurance premiums. Generally, the consumer pays a certain amount of the premium in the form of a down payment. Many of these transactions are cash transactions. There are an estimated 154 premium finance companies in Florida.

Unlike agents or insurance companies, premium finance companies may also assess other fees as outlined under Table 1.¹⁰ Staff with the Department of Insurance prepared the following information under Table 2 to illustrate the maximum charge currently allowed for an insurance company, agent, or agency as well as the maximum charge allowed for a premium finance company.

Table 2 - Hypothetical

- \$1,000 premium on a 6-month policy
- 2 months down payment (\$333) and equal installments at months 3,4, 5, and 6.

Principal Payment	Number of Payments Outstanding	Outstanding Balance	Months since prior payment	Monthly interest rate	Maximum Charge
\$166.75	4	\$667.00	2	1.50%	\$20.01
\$166.75	3	\$500.25	1	1.50%	\$7.50
\$166.75	2	\$333.50	1	1.50%	\$5.00
\$166.75	1	\$166.75	1	1.50%	\$2.50
TOTAL \$667.00					\$35.02

⁸ S. 627.835, F.S. The penalty which may be imposed by the Department is the forfeiture of the entire premium finance charge to which the person or entity would otherwise be entitled, and the person who paid the unlawful charge may sue for recovery for *twice the amount of the premium finance charge so paid*.

⁹ Premium finance companies are licensed by the Department of Insurance and must meet minimum net worth requirements and maintain an errors and omissions insurance policy of no less than \$500,000 (s. 627.828, F.S.).

¹⁰ Ch. 627.828, F.S.,

Under Table 2, the Department would permit the insurance company, agent, or agency to charge \$35.02 in equal amounts over the four outstanding payments, or \$8.75 per installment. Under Table 2, the Department would allow a premium finance company to charge \$53.35, or \$13.34 per installment. This is the result of a difference in the computation of the finance charge, in place of the interest rate, and the application of a \$20 “set up” fee allowed by statute.

III. Effect of Proposed Changes:

Section 1. Amends s. 627.901, F.S., relating to premium financing, to allow an alternative to the current method of calculating and billing interest charges when premiums are financed by an insurance agent, agency, or company. Interest could be charged, as provided in current law,¹¹ on the unpaid balance, or, in the alternative, interest could be charged on the average unpaid balance as billed over the term of the policy and subject to endorsement changes, and that interest could be billed in equal installments. This provision thus allows for equal monthly interest charges as an alternative to a declining interest rate charge, however, the total amount of interest paid under both methods would be the same.

By amending s. 627.901, F.S., the bill applies to premium financing by an insurance agent, but would also apply to premium financing by an insurer under s. 627.902, F.S., due to the cross-reference in that section to the interest rate specified in s. 627.901, F.S.

Section 2. Amends s. 627.902, F.S., applying to premium financing, to allow insurance companies to charge other fees and charges that premium finance companies are currently authorized to charge, but without having to be separately licensed as a premium finance company. These fees and charges include: a delinquency and collection charge of up to \$10 or 5 percent of the delinquent amount, whichever is greater; attorney’s fees under certain circumstances; insufficient fund fees of \$15; and, one-half of the fixed set-up fee. The fixed set-up fee currently authorized by statute is \$20 and this bill would allow insurers to charge \$10.

Section 3. The bill would take effect July 1, 2002.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹¹ The current interest rate is 18 percent.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Permitting insurance companies to charge additional fees when using an installment arrangement for premium payments would increase costs to policyholders. However, certain costs would not apply unless the policyholder was late or delinquent in making payments. To the extent policyholders paid higher fees, insurance companies would experience increased revenues.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
