

INSURANCE CODE

TITLE 5. PROTECTION OF CONSUMER INTERESTS

SUBTITLE E. PREMIUM FINANCING

CHAPTER 651. FINANCING OF INSURANCE PREMIUMS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 651.001. DEFINITIONS. In this chapter:

(1) "Annual percentage rate" means the annual percentage rate of finance charge determined under the Consumer Credit Protection Act and Regulation Z.

(2) "Consumer Credit Protection Act" means the Consumer Credit Protection Act of 1970 (15 U.S.C. Section 1601 et seq.; 18 U.S.C. Section 891 et seq.).

(2-a) "Insurance agent" means a person licensed under Subchapter E, Chapter 981 or Chapter 4051, 4052, 4053, 4054, 4055, 4056, or 4153.

(3) "Insurance premium finance company" means:

(A) a person engaged in the business of making loans under this chapter by entering into premium finance agreements with insureds or prospective insureds;

(B) a person engaged in the business of acquiring premium finance agreements from insurance agents or brokers or from other insurance premium finance companies; or

(C) an insurance agent or broker making loans under this chapter who holds premium finance agreements made and delivered by insureds that are payable to the agent or broker or to the agent's or broker's order.

(4) "Insured" means a person who enters into a premium finance agreement with an insurance premium finance company.

(5) "Insurer" means an entity organized or authorized to engage in the business of insurance under this code as a capital stock insurance company, title insurance company, reciprocal or interinsurance exchange, Lloyd's plan, fraternal benefit society, mutual or mutual assessment company of any kind, statewide mutual assessment company, local mutual aid association, burial association, county or farm mutual insurance company, fidelity,

guaranty, or surety company, or trust company.

(6) "License holder" means an insurance premium finance company that holds a license issued under Subchapter B.

(7) "Person" means an individual, partnership, corporation, joint venture, trust, association, or other legal entity, regardless of organization.

(8) "Premium finance agreement" means an agreement by which an insured or prospective insured promises to pay to an insurance premium finance company the amount advanced or to be advanced under the agreement to an insurer or to an insurance agent in payment of the premiums on an insurance contract.

(8-a) "Premium finance agreement servicer" means a person who provides a premium finance company with collection, billing, or other services related to the administration of premium finance agreements.

(9) "Regulation Z" means the federal regulations adopted under the Consumer Credit Protection Act as 12 C.F.R. Section 226.1 et seq.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 757 (H.B. 2965), Sec. 1, eff. June 17, 2005.

Sec. 651.002. CERTAIN CONDUCT NOT ENGAGING IN BUSINESS AS INSURANCE PREMIUM FINANCE COMPANY. (a) The preparation or delivery by an insurance agent of a premium finance agreement or disclosure statement required by Section 651.155 on behalf of the insured does not constitute engaging in business as an insurance premium finance company.

(b) Subsection (a) does not apply to a premium finance agreement held for the benefit of the insurance agent as provided by Section 651.001(3)(C).

(c) This chapter does not apply to a health care sharing ministry operated under Chapter 1681.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 455 (S.B. 874), Sec. 3, eff.

June 14, 2013.

Sec. 651.003. RULES. (a) The commissioner may adopt and enforce rules necessary to administer this chapter.

(b) The rules may contain classifications, differentiations, or other provisions and provide for adjustments or exceptions for any class of transactions necessary to:

- (1) accomplish the purposes of this chapter;
- (2) prevent circumvention or evasion of this chapter;

or

- (3) facilitate compliance with this chapter.

(c) A rule adopted by the commissioner may not contain any classification, differentiation, or other provision with respect to any class of transactions or provide for any adjustment or exception for any class of transactions that would result in a less stringent disclosure requirement than required for that class of transactions by the Consumer Credit Protection Act or Regulation Z. Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.004. EMPLOYMENT OF EXAMINERS AND INVESTIGATORS; PAYMENT OF EXPENSES. The department may:

(1) employ persons as necessary to examine or investigate and make reports on alleged violations of this chapter and compliance with any other provision of this code by a license holder;

(2) pay the salaries and expenses of persons described by Subdivision (1) and of all office employees; and

- (3) pay an expense necessary to enforce this chapter.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.005. DEPOSIT AND USE OF FEES. (a) Except as provided by Subsection (b), each fee collected under this chapter:

(1) shall be deposited to the credit of the Texas Department of Insurance operating account; and

(2) may be used by the department to enforce this chapter.

(b) An assessment or fee associated with examination costs,

as defined by Section [401.251](#), shall be deposited to the account described by Section [401.156\(a\)](#).

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 659 (S.B. [1291](#)), Sec. 4, eff. September 1, 2011.

Sec. 651.006. ASSESSMENTS. (a) A license holder shall pay to the department:

(1) an amount imposed by the department to cover the direct and indirect cost of examinations and investigations made under this chapter; and

(2) a proportionate share of the general administrative expense attributable to the regulation of license holders.

(b) Each amount required by this section is in addition to any investigation or license fee imposed under Subchapter B.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.007. APPLICABILITY OF CONSUMER CREDIT PROTECTION ACT AND REGULATION Z. A transaction that is subject to this chapter is also subject to:

(1) the Consumer Credit Protection Act; and

(2) the applicable provisions of Regulation Z.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.008. AUTHORITY OF CERTAIN PROPERTY AND CASUALTY AGENTS TO CHARGE INTEREST TO CERTAIN PERSONS. (a) Notwithstanding any other law, a general property and casualty agent or a personal lines property and casualty agent who holds a license under Chapter [4051](#) may enter into a written agreement with a purchaser of insurance from the agent that provides for the payment of interest to the agent on any amount due to the agent for the insurance purchased. The interest is computed at a rate not to exceed the greater of:

(1) a rate allowed by Chapter [303](#), Finance Code; or

(2) the rate of one percent a month.

(b) A claim or defense of usury may not be raised in connection with a written agreement under this section.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 548 (S.B. 1263), Sec. 2.06, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 548 (S.B. 1263), Sec. 2.07, eff. September 1, 2007.

SUBCHAPTER B. AUTHORITY TO ENGAGE IN BUSINESS

Sec. 651.051. LICENSE REQUIRED. (a) Unless the person is a license holder, a person may not:

(1) negotiate, transact, or engage in the business of insurance premium financing in this state; or

(2) contract for, charge, or receive directly or indirectly on or in connection with an insurance premium financing any charge, regardless of whether the charge is for interest, compensation, consideration, expense, or otherwise, if in the aggregate the amount of the charge exceeds the amount the person would be permitted by law to charge if the person were not a license holder.

(b) This subchapter does not apply to a person who purchases or otherwise acquires a premium finance agreement from a license holder if the license holder:

(1) retains the right to service the agreement and to collect payments due under the agreement; and

(2) remains responsible for servicing the agreement in compliance with this chapter.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 757 (H.B. 2965), Sec. 2, eff. June 17, 2005.

Sec. 651.052. LICENSE FEE. (a) The department shall establish the fee for a license under this subchapter in an amount not to exceed \$200.

(b) The fee for a license issued after June 30 may not exceed \$100.

(c) Section 201.001 applies to fees collected under this section.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.053. ENTITLEMENT OF BANKS AND SAVINGS AND LOAN ASSOCIATIONS TO LICENSE. (a) A bank or a savings and loan association is entitled to receive a license under this subchapter if the bank or savings and loan association:

(1) is engaging in business under the laws of this state or the United States; and

(2) notifies the department of its intention to operate under this chapter.

(b) On receipt of notice under Subsection (a)(2), the department shall immediately issue a license to the bank or savings and loan association.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.054. APPLICATION FOR LICENSE; INVESTIGATION FEE; EXEMPTION. (a) An application for a license to engage in the business of insurance premium financing must:

(1) be in writing on a form prescribed by the commissioner; and

(2) be accompanied by a nonrefundable investigation fee in an amount not to exceed \$400 as established by the department.

(b) A person who on January 1, 1980, held a license under Chapter 3, Title 79, Revised Statutes (Article 5069-3.01 et seq., Vernon's Texas Civil Statutes), is not required to pay an investigation fee.

(c) Section 201.001 applies to fees collected under this section.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.055. REFUSAL TO ISSUE LICENSE. The department may refuse to issue a license to an applicant if the department

determines that:

(1) the financial responsibility, experience, character, or general fitness of the applicant or any person associated with the applicant does not command the confidence of the community and does not warrant the belief that the applicant will engage in the business of insurance premium financing honestly, fairly, and efficiently; or

(2) the applicant does not have available for the operation of the business net assets of at least \$25,000.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.056. NOTICE OF ACTION ON APPLICATION. Not later than the 90th day after the date the department receives an application under Section 651.054, the department shall notify the applicant that:

(1) the application has been approved and the department will issue a license to the applicant on payment of the required license fee; or

(2) the application has been denied.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.057. ISSUANCE OF LICENSE. After approval of an application and on receipt of the required license fee, the department shall:

(1) issue a license authorizing the license holder to engage in business as an insurance premium finance company at the location specified in the license holder's application; and

(2) send the license to the applicant.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.058. RECIPROCAL LICENSE. The department may waive any license requirement for an applicant who holds a valid license from another state that has license requirements substantially equivalent to the requirements prescribed by this state.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.059. ISSUANCE OF MULTIPLE LICENSES. The

department may issue a person more than one license under this subchapter but may not issue one person more than 60 of those licenses.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.060. SINGLE BUSINESS LOCATION AUTHORIZED BY LICENSE. A license authorizes the license holder to maintain only one location where the business of insurance premium financing may be conducted.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.061. APPEARANCE OF LICENSE; POSTING. (a) A license must state the name and address of the license holder.

(b) The license must be conspicuously posted at the location where the license holder engages in the business of insurance premium financing.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.062. TRANSFER OR ASSIGNMENT OF LICENSE PROHIBITED. A license may not be transferred or assigned.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.063. TERM OF LICENSE. Unless a staggered renewal system is adopted under Section [651.065](#), a license is issued for the calendar year and remains valid until December 31 of that year, unless suspended, revoked, or surrendered in accordance with Section [651.204](#) or [651.206](#).

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.064. PROCEDURE FOR LICENSE RENEWAL. (a) A license holder may renew an unexpired license by paying the required renewal fee to the department.

(b) A person whose license has been expired for 90 days or less may renew the license by paying to the department:

(1) the required renewal fee; and

(2) an additional fee equal to one-half of the original license fee.

(c) A person whose license has been expired for more than 90 days but less than two years may renew the license by paying to the department:

- (1) all unpaid renewal fees; and
- (2) an additional fee equal to the original license fee.

(d) A person whose license has been expired for two years or more may not renew the license. The person may obtain a new license by complying with the requirements and procedures for obtaining an original license.

(e) Not later than the 30th day before the date a person's license expires, the department shall send written notice of the impending license expiration to the person at the person's last known address.

(f) This section may not be construed to prevent the department from denying or refusing to renew a license under an applicable law or a rule adopted by the commissioner.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.065. STAGGERED RENEWAL SYSTEM. (a) The commissioner by rule may adopt a system under which licenses expire on various dates during the year.

(b) For a year in which the license expiration date is less than one year from the date of license issuance or the anniversary of that date, the license fee shall be prorated so that each license holder pays only that portion of the license fee allocable to the number of months during which the license is valid. On each subsequent renewal of the license, a license holder must pay the total renewal fee.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

SUBCHAPTER C. REGULATION OF INSURANCE PREMIUM FINANCE COMPANIES AND OTHERS

Sec. 651.101. BOOKS, ACCOUNTS, AND RECORDS. (a) A license holder shall maintain books, accounts, and records in sufficient detail to enable a representative of the department to determine

whether the license holder is in compliance with this chapter and rules adopted by the commissioner.

(b) A license holder shall maintain for inspection the license holder's books, accounts, and records, including any cards used in a card system, for at least four years after the date the final entry of any premium finance agreement is recorded in those books, accounts, and records.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.102. ANNUAL REPORT. On or before April 1 of each year, a license holder shall file with the department a report containing information required by the department concerning the business and operations of the license holder during the preceding calendar year at each licensed location where the license holder engages in the business of insurance premium financing in this state.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.103. BUSINESS NAME. A license holder may not engage in the business of insurance premium financing under any name other than the name stated on the license.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.104. BUSINESS LOCATION. A license holder may not engage in the business of insurance premium financing at any location other than the address stated on the license.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.105. RELOCATION OF PLACE OF BUSINESS. (a) A license holder who proposes to relocate the place where the holder engages in the business of insurance premium financing shall give written notice of the proposed change to the department.

(b) If the department approves the proposed relocation, the department shall issue an endorsement to the license holder indicating the change and the date of the change.

(c) The endorsement authorizes the license holder to engage in the business of insurance premium financing at the new location.

The license holder shall attach the endorsement to the license for that location.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.106. BUSINESS PREMISES. (a) Except as provided by Subsection (b), a license holder may engage in the business of insurance premium financing:

(1) in any office, suite, room, or place of business in which any other business is solicited or engaged in; or

(2) in association or in conjunction with any other business.

(b) Subsection (a) does not apply if the department:

(1) determines, after a hearing, that the conduct by the license holder of the other business at the location for which the license was issued has concealed evasions of this chapter; and

(2) orders the license holder in writing to stop engaging in the business of insurance premium financing at that location.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.107. ENGAGING IN BUSINESS BY MAIL OR OUTSIDE THE COMMUNITY. This chapter does not prohibit a license holder from engaging in the business of insurance premium financing:

(1) by mail; or

(2) with persons who do not reside in the same community as the licensed location.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.108. CERTAIN CHARGES PROHIBITED. In connection with a premium finance agreement entered into under this chapter, an insurance charge or any other charge or fee may not be imposed unless the charge or fee is authorized by this chapter.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.109. LIMITATIONS ON RATES AND CHARGES. (a) An insurance premium finance company may not take or receive from an insured a greater rate or charge than is authorized by Chapter 342,

Finance Code.

(b) For purposes of this section, a charge begins on the earlier of:

(1) the date from which the insurer requires payment of the premium and payment was made to the insurer for the financed policy; or

(2) the effective date of the policy.

(c) The finance charge is computed on the balance of the premiums due after subtracting any down payment made by the insured in accordance with the premium finance agreement.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.110. LIMITATIONS ON CERTAIN INDUCEMENTS OR SHARING OF PROFITS AND FEES. (a) This section applies to:

(1) an insurance premium finance company;

(2) an insurance agent;

(3) a premium finance agreement servicer; or

(4) an affiliate, employee, agent, or other representative of an insurance premium finance company or a premium finance agreement servicer.

(a-1) A person, partnership, or other entity described by Subsection (a) and involved in transactions related to the financing of insurance premiums may not:

(1) directly or indirectly pay, allow, give, or offer to pay, allow, or give in any manner to an insurance agent or an employee of an insurance agent any consideration, compensation, or inducement for soliciting, accepting an application for, delivering, or administering premium finance agreements;

(2) pay, allow, or offer to pay or allow an insurance agent or an employee of an insurance agent to share the profits of any person, partnership, or other entity if any portion of the share of profits is determined, either in whole or in part, by the amount of premium dollars financed or premium finance agreements placed; or

(3) pay, allow, or offer to pay or allow an insurance agent or an employee of an insurance agent to share any portion of fees, including late fees, that are related to the premium finance

agreement.

(b) Subsection (a-1) does not prohibit the giving or offering of an article of merchandise to an insurance agent or an employee of an insurance agent that has a value of \$10 or less on which there is an advertisement of the insurance premium finance company.

(c) Subsection (a-1) does not prohibit a person, partnership, or other entity described by Subsection (a) from making a payment under a contractual agreement with a validly organized and operating association of insurance agents or a subsidiary of the association if no part of a payment received under the agreement:

(1) is distributed to an insurance agent or an employee of an insurance agent; or

(2) inures directly to the benefit of a member of the association or an employee of the member.

(d) A contractual agreement under Subsection (c):

(1) must be in writing; and

(2) is not valid until commissioner approval is received.

(e) Subsection (a-1) does not prohibit an insurance agent from being the sole owner or sole shareholder of an insurance premium finance company and receiving profits and fees of the insurance premium finance company if the insurance agent discloses in writing the agent's ownership interest in the insurance premium finance company to all insureds placed by the agent with the insurance premium finance company owned by the agent.

(f) Subsections (a-1) and (e) do not apply to a person, partnership, or other entity described by Subsection (a) and involved in transactions related to the financing of insurance premiums for commercial lines of insurance if, with respect to those transactions:

(1) the insurance agent discloses in writing the source of any compensation to be received by the agent as a result of the insured entering into a premium finance agreement;

(2) the agent provides in writing to the insured the amount of compensation, as a percentage of the premiums

financed, if the amount of compensation received by the agent exceeds two percent of the premium amount financed; and

(3) the amount of compensation is based only on actual premiums financed and is not paid as:

(A) an advance on future premium finance agreements; or

(B) a form of bonus for the agent agreeing to place finance agreements with the premium finance company.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 757 (H.B. 2965), Sec. 4, eff. June 17, 2005.

Sec. 651.111. DECEPTIVE ADVERTISING PROHIBITED. (a) A license holder may not advertise or cause to be advertised in any manner any false, misleading, or deceptive statement or representation with regard to the rates, terms, or conditions of a premium finance agreement.

(b) If rates or charges are stated in advertising, the license holder must express the rates or charges in terms of a simple annual percentage rate as defined by federal law.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

SUBCHAPTER D. PREMIUM FINANCE AGREEMENTS

Sec. 651.151. REQUIRED FORM AND CONTENTS OF PREMIUM FINANCE AGREEMENT. (a) A premium finance agreement must be in writing on a form approved by the commissioner.

(b) A premium finance agreement must be dated and signed by the insured. An agreement may be signed on behalf of the insured by the insured's agent if:

(1) the agreement contains policies for other than personal, family, or household purposes; and

(2) the premiums for the policies exceed \$1,000.

(c) A premium finance agreement must contain:

(1) the name and business address of the insurance agent or broker negotiating the related insurance contract;

(2) the name and residence or business address of the insured as specified by the insured;

(3) the name and business location of the insurance premium finance company to which payments are to be made;

(4) a description of each insurance contract involved;

(5) the amount of the premium for each insurance contract;

(6) the total amount of the premiums for all insurance contracts;

(7) the amount of any down payment;

(8) the principal balance, which is the difference between the amounts under Subdivisions (6) and (7);

(9) the total amount of the finance charge, which must describe each amount included and use the term "finance charge"; and

(10) the balance payable by the insured, which is the sum of the amounts under Subdivisions (8) and (9).

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.152. OTHER REQUIRED CONTENTS. In addition to the items required by Section [651.151](#), a premium finance agreement must contain the following, as applicable:

(1) the finance charge expressed as an annual percentage rate, using the term "annual percentage rate";

(2) the number of installments required under the agreement;

(3) the amount of each installment expressed in dollars;

(4) the due date or period of each installment;

(5) the amount or method of computing the amount of any default or delinquency charge that is payable in the event of late payment; and

(6) the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.153. FORM OF DISCLOSURES. (a) The disclosures

required by Sections 651.151 and 651.152 must be made clearly, conspicuously, and in meaningful sequence.

(b) If the term "finance charge" or "annual percentage rate" is required to be used, the term must be printed more conspicuously than other required terminology.

(c) Each numerical amount or percentage must be expressed as a figure and:

(1) legibly handwritten; or

(2) printed in not less than the equivalent of 10-point type, 75/1,000-inch computer type, or elite-size typewritten numerals.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.154. CONSOLIDATION OF INCREASE ATTRIBUTABLE TO AMENDMENT OF RATE CLASSIFICATION. (a) If, in a premium finance agreement, a change in an insured's policy that is caused by an amendment of the rate classification by endorsement or otherwise results in an increased principal balance and the amount under the previous contract has not been fully paid, the subsequent increase, at the insured's option, may be consolidated with the previous contract if the agreement provides for consolidation.

(b) A consolidation under this section may be accomplished by a memorandum of agreement between the agent and the insured if, before the first scheduled payment date of the amended transaction, the insurance premium finance company provides to the insured the following information in writing:

(1) the amount of the premium increase;

(2) the down payment on the increase;

(3) the principal amount of the increase;

(4) the total amount of any finance charge on the increase;

(5) the total of the additional balance due;

(6) the outstanding balance due under the original agreement;

(7) the balance due under the consolidated agreement;

(8) the annual percentage rate of any finance charge on the additional balance due;

(9) the revised schedule of payments;

(10) the amount or method of computing the amount of any default, deferment, or similar charge authorized by Chapter 342, Finance Code, that is payable in the event of late payment; and

(11) the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.155. RESPONSIBILITIES OF INSURANCE AGENT. An insurance agent shall:

(1) prepare a premium finance agreement; and

(2) deliver to the insured each disclosure statement required by law.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.156. TAKING OF INCOMPLETE PREMIUM FINANCE AGREEMENT PROHIBITED. A license holder may not take a premium finance agreement that has not been fully completed and executed at the time the agreement is executed.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.157. PERFECTION OF PREMIUM FINANCE AGREEMENT AS SECURED TRANSACTION: FILING NOT REQUIRED. Filing of a premium finance agreement or a financing statement is not necessary to perfect the agreement as a secured transaction against a creditor, subsequent purchaser, pledgee, encumbrancer, successor, or assign of the insured or any other party.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.158. PREPAYMENT AND REFUND. (a) Notwithstanding the provisions of any premium finance agreement to the contrary, an insured may pay the balance due under the agreement in full at any time before the maturity of the final installment of the balance.

(b) If an insured pays a premium finance agreement in full as authorized by this section and the agreement included an amount for a charge, the insured is entitled to receive for the prepayment

by cash or renewal a refund credit in accordance with Subchapter H, Chapter 342, Finance Code, and rules adopted under that subchapter. If the amount of the credit for prepayment is less than \$5, the insured is not entitled to a refund credit.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 757 (H.B. 2965), Sec. 5, eff. June 17, 2005.

Sec. 651.159. DEFAULT CHARGE. A premium finance agreement may provide for the payment of a default charge by the insured as provided by Section 342.203, Finance Code, this code, or a rule adopted under those statutes.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.160. POWER OF ATTORNEY. A premium finance agreement may contain a power of attorney that enables the insurance premium finance company to cancel any or all of the insurance contracts listed in the agreement as provided by Section 651.161.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.161. CANCELLATION OF INSURANCE CONTRACT. (a) An insurance premium finance company may not cancel an insurance contract listed in a premium finance agreement except as provided by this section for an insured's failure to make a payment at the time and in the amount provided in the agreement.

(b) The insurance premium finance company must mail to the insured a written notice that the company will cancel the insurance contract because of the insured's default in payment unless the default is cured at or before the time stated in the notice. The stated time may not be earlier than the 10th day after the date the notice is mailed.

(c) The insurance premium finance company must also mail a copy of the notice to the insurance agent or broker identified in the premium finance agreement.

(d) After the time stated in the notice required by

Subsection (b), the insurance premium finance company may cancel each applicable insurance contract by mailing a notice of cancellation to the insurer. Each insurance contract shall be canceled as if the insured had canceled the contract, except that the return of a canceled contract is not required.

(e) The insurance premium finance company must also mail a notice of cancellation to:

(1) the insured at the insured's last known address; and

(2) the insurance agent or broker identified in the premium finance agreement.

(f) A statutory, regulatory, or contractual restriction that provides that an insurance contract may not be canceled unless notice is given to a governmental agency, mortgagee, or other third party applies to a cancellation under this section. The insurer shall:

(1) give the prescribed notice on behalf of the insurer or the insured to each governmental agency, mortgagee, or other third party on or before the second business day after the date the insurer receives the notice of cancellation from the insurance premium finance company; and

(2) determine the effective date of cancellation, taking into consideration the number of days' notice required to complete the cancellation.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.162. RETURN OF UNEARNED PREMIUMS AND COMMISSIONS.

(a) This section applies only to a premium finance agreement that contains an assignment or power of attorney for the benefit of the insurance premium finance company.

(b) If an insurance contract listed in a premium finance agreement is canceled, the insurer shall return all unearned premiums that are due under the contract directly to the insurance premium finance company before the 61st day after the cancellation date.

(c) The insurer may deduct from the unearned premiums returned to the insurance premium finance company the amount of any

unearned commission due from the agent writing the insurance if the insurer notifies the agent to return the unearned commission to the insurance premium finance company. If the agent does not return the unearned commission to the insurance premium finance company before the 91st day after the cancellation date, the insurer shall remit the unearned commission to the insurance premium finance company before the 121st day after the cancellation date.

(d) Notwithstanding Subsections (a)-(c), an agent is liable for the return of unearned commissions on an insurance contract written through the Texas Windstorm Insurance Association, the Texas Automobile Insurance Plan Association, or the Texas Medical Liability Insurance Underwriting Association. An agent placing business through one of those plans shall return the unearned commissions to the insurance premium finance company before the 61st day after the date the agent is notified of the cancellation.

(e) An insurer, other than the Texas Windstorm Insurance Association, the Texas Automobile Insurance Plan Association, or the Texas Medical Liability Insurance Underwriting Association, may return the unearned premiums to the producing agent. The insurer remains liable and shall remit the unearned premiums to the insurance premium finance company before the 121st day after the cancellation date if:

(1) the producing agent does not return the unearned premiums to the insurance premium finance company before the 91st day after the cancellation date; and

(2) the insurance premium finance company complied with Section [651.165](#).

(f) If the insurance premium finance company failed to comply with Section [651.165](#), the insurer, including the Texas Windstorm Insurance Association, the Texas Automobile Insurance Plan Association, and the Texas Medical Liability Insurance Underwriting Association, may comply with its legal duty to return the unearned premiums due under the insurance contract to the insurance premium finance company by returning those unearned premiums to the producing agent.

(g) If the crediting of return premiums to the account of an insured results in a surplus over the amount due from the insured,

the insurance premium finance company shall refund the excess to the insured. If the amount of the excess is less than \$5, the insured is not entitled to a refund.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 417 (H.B. 1975), Sec. 1, eff. June 19, 2009.

Sec. 651.163. ASSIGNMENT OF PREMIUM FINANCE AGREEMENT.

Unless the insured has notice of an actual or intended assignment of a premium finance agreement, payment by an insured under the agreement to the last known holder of the agreement is binding on all subsequent holders or assignees.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.164. RESTRICTIONS ON PREMIUM FINANCE AGREEMENTS.

(a) A premium finance agreement may not contain any provision under which, absent default by the insured, the insurance premium finance company holding the agreement may arbitrarily or without reasonable cause accelerate the maturity of all or any part of the amount owing under the agreement.

(b) For purposes of Subsection (a), reasonable cause includes a proceeding in bankruptcy, receivership, or insolvency instituted by or against the insured or the insolvency of or suspension of business or cessation of the right to engage in business by an insurer writing policies that are financed for the insured under the premium finance agreement.

(c) A license holder may not take:

(1) an instrument in which the insured waives any right accruing to the insured under this chapter;

(2) an instrument that has not been fully completed and executed by the insured;

(3) an assignment of wages as security for an insurance premium finance agreement entered into under this chapter;

(4) a lien on real property as security for a premium finance agreement entered into under this chapter, except any lien

created by law on the recording of an abstract of judgment; or

(5) a confession of judgment or a power of attorney in favor of the license holder or a third person to confess judgment or to appear for an insured in a judicial proceeding.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.165. REQUIRED NOTICE OF CERTAIN PREMIUM FINANCE AGREEMENTS. (a) An insurance premium finance company that enters into a premium finance agreement that includes an assignment or power of attorney shall notify the insurer or the Texas Windstorm Insurance Association, the Texas Automobile Insurance Plan Association, or the Texas Medical Liability Insurance Underwriting Association whose premiums are being financed:

- (1) of the existence of the agreement; and
- (2) to whom the premium payment has been made.

(b) An insurance premium finance company shall notify and fund all premiums to a county mutual insurance company unless the insurance premium finance company is authorized in writing by the county mutual insurance company to notify or fund an agent or managing general agent.

(c) Notice required under this section must be made before the 31st day after the date the premium finance agreement is accepted by the insurance premium finance company.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.166. TAKING, RECEIVING, OR CHARGING UNAUTHORIZED AMOUNT. (a) Taking or receiving from an insured or the charging of an insured by an insurance premium finance company of a charge greater than authorized by this chapter does not invalidate:

- (1) the premium finance agreement; or
- (2) the principal balance payable under the agreement.

(b) An action described by Subsection (a) may be adjudged a forfeiture of all charges that:

- (1) are authorized under the premium finance agreement; or
- (2) the insured has agreed to pay.

(c) A person who pays an unauthorized charge or the person's

legal representative may bring an action against the insurance premium finance company to recover twice the total amount of the charge paid. The action must be brought within two years after the date the unauthorized charge is paid.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.167. EFFECT OF LICENSE REVOCATION, SUSPENSION, OR SURRENDER ON PREMIUM FINANCE AGREEMENT. The revocation, suspension, or surrender of a license does not affect the obligation of an insured under a lawful premium finance agreement previously acquired or held by the person whose license was revoked, suspended, or surrendered.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

SUBCHAPTER E. DISCIPLINARY PROCEDURES AND PENALTIES; OFFENSES

Sec. 651.201. EXAMINATIONS AND INVESTIGATIONS OF LICENSE HOLDERS. (a) The department may conduct an examination or investigation that is necessary to determine whether a license holder:

- (1) is in compliance with this chapter; or
- (2) has engaged in conduct that would warrant the revocation or suspension of the license holder's license.

(b) The department or an authorized representative of the department may:

- (1) require the attendance of any person;
- (2) examine the person under oath; and
- (3) compel the production of any relevant book, record, account, or document.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.202. CONFIDENTIALITY OF REPORTS AND RELATED MATERIAL. (a) A report of an examination or investigation under Section [651.201](#) and any correspondence or memoranda concerning or arising from the examination or investigation:

- (1) are confidential communications;
- (2) are not subject to subpoena; and

(3) may not be made public, except in connection with a hearing under Section 651.204 or an appearance in connection with the hearing.

(b) Subsection (a) applies to an authenticated copy of a report described by Subsection (a) in the possession of the commissioner, the department, or a license holder.

(c) Information obtained in the course of an examination or investigation may be made available to another governmental agency if the information involves a matter within the scope or jurisdiction of the agency.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.203. HEARINGS AND INVESTIGATIONS; SUBPOENA POWER. In conducting a hearing or investigation under this chapter, the department or a person designated by the department may:

- (1) administer oaths;
- (2) subpoena witnesses;
- (3) take depositions of witnesses who reside outside of this state in the manner provided for in a civil action in district court; and
- (4) pay to those witnesses a fee and mileage for attendance as provided for a witness in a civil action in district court.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.204. REVOCATION OR SUSPENSION OF LICENSE. After notice and hearing, the department may revoke or suspend a license if:

- (1) the department finds:
 - (A) that the license holder has violated this chapter or a rule adopted by the commissioner under this chapter; or
 - (B) the existence of a fact or condition that, if the fact or condition existed at the time of the original application for the license, clearly would have warranted the refusal of the license; or
- (2) the department learns from any source that the

license holder has failed to return all amounts due from an insurance premium finance company to the person whose insurance policy has been canceled as required by Section 651.162.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.205. ISSUANCE OF REVOCATION OR SUSPENSION ORDER.

If the department revokes or suspends a license, the department shall:

(1) immediately issue in duplicate a written order of revocation or suspension;

(2) file one copy of the order in the office of the secretary of state; and

(3) mail one copy of the order to the license holder.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.206. SURRENDER OF LICENSE; EFFECT. (a) A license holder may surrender a license by delivering to the department written notice that the license holder surrenders the license.

(b) The surrender of a license does not affect any civil or criminal liability of the person for an act committed before the surrender.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.207. LICENSE REINSTATEMENT. The department may reinstate a suspended license or issue a new license to a person whose license has been revoked if no fact or condition exists that clearly would have warranted the refusal to issue the license originally.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.208. OFFENSE. (a) A person commits an offense if the person:

(1) intentionally, knowingly, recklessly, or negligently engages in the operation of an insurance premium finance company and does not hold a license issued under this chapter;

(2) intentionally, knowingly, recklessly, or

negligently violates this chapter;

(3) intentionally or knowingly omits to state a material fact necessary to give the commissioner or the department information lawfully required of the person; or

(4) refuses to permit an investigation or examination authorized under this chapter.

(b) An offense under this section is a Class B misdemeanor. Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 651.209. SANCTIONS; CEASE AND DESIST ORDERS. In addition to each penalty provided by Sections [651.166](#) and [651.208](#), the commissioner or a person designated by the commissioner may:

(1) order a sanction under Subchapter B, Chapter [82](#);
or

(2) issue a cease and desist order under Chapter [83](#).
Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.