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FLORIDA LEGISLATURE

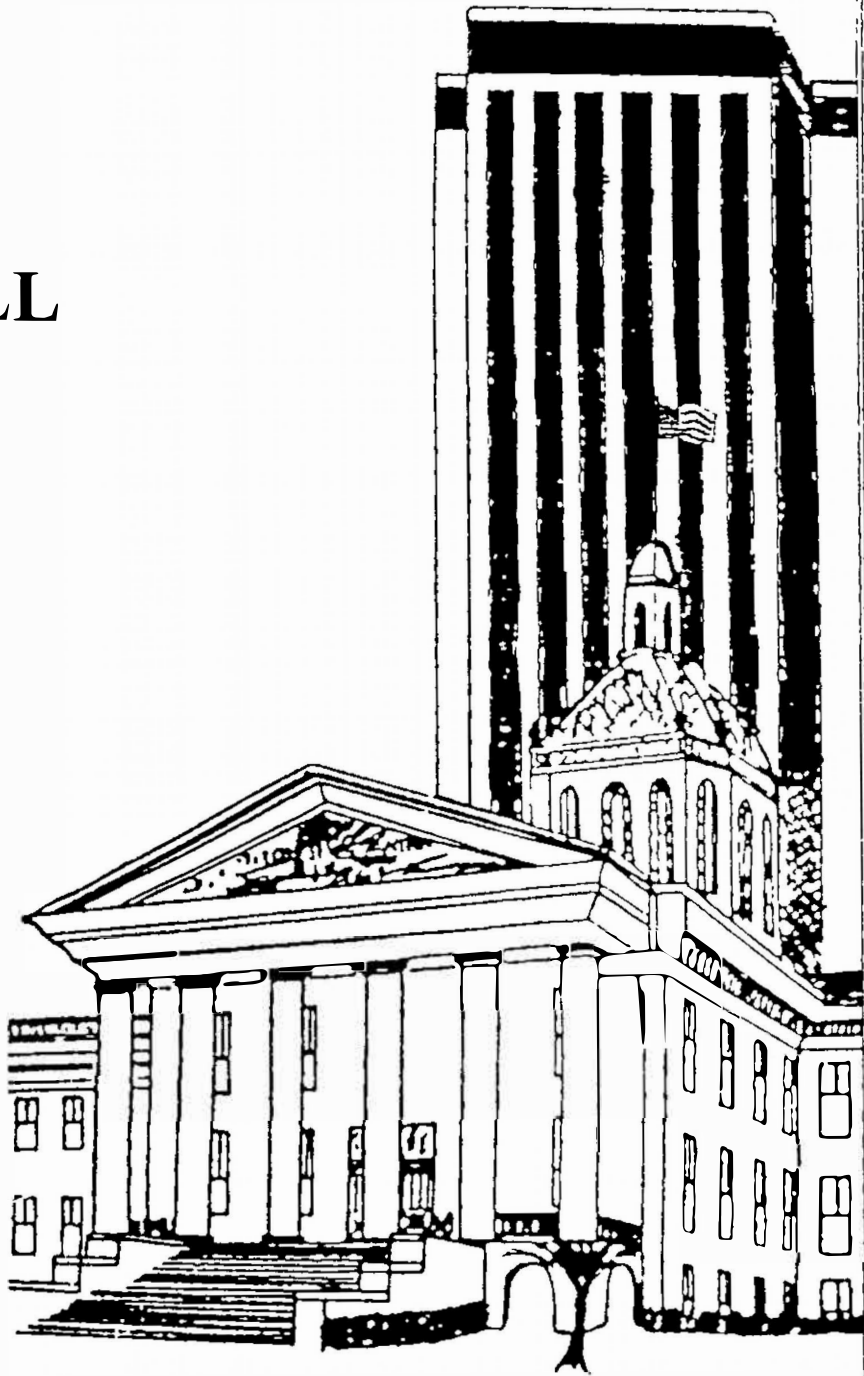
FINAL LEGISLATIVE BILL INFORMATION

1997 Regular Session

RE: CH 97-204

CS/HR 487 (Passed)

CS/SB 1402 (substituted)



prepared by:

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HISTORY OF HOUSE BILLS

H 477 (CONTINUED)

- 03/20/97 HOUSE On Committee agenda—Business Regulation & Consumer Affairs (EIC), 03/26/97, 3 00 pm, 214C
- 03/26/97 HOUSE Comm Action Unanimously Favorable by Business Regulation & Consumer Affairs (EIC) —HJ 00375
- 03/28/97 HOUSE Now in Governmental Operations (GRC) —HJ 00375
- 04/03/97 HOUSE On Committee agenda—Governmental Operations (GRC), 04/09/97, 1 00 pm, 413C—Cancelled
- 04/09/97 HOUSE On Committee agenda—Governmental Operations (GRC), 04/15/97, 8 30 am, 413C
- 04/15/97 HOUSE Comm Action Favorable by Governmental Operations (GRC) —HJ 00597
- 04/16/97 HOUSE Now in Finance & Taxation (FRC) —HJ 00597
- 04/17/97 HOUSE On Committee agenda—Finance & Taxation (FRC), 04/18/97, 9 00 am, Morris Hall
- 04/18/97 HOUSE Comm Action Favorable with 2 amendment(s) by Finance & Taxation (FRC) —HJ 00700
- 04/23/97 HOUSE Now in General Government Appropriations —HJ 00700
- 05/02/97 HOUSE Carried over to 1998 Session pursuant to House Rule 96, In House Committee on General Government Appropriations

H 479 GENERAL BILL by Kelly, (CO-SPONSORS) Feeney, Mackey; Heyman

Child Custody & Visitation, provides for standing in court re persons who have been awarded temporary custody of minor child for purpose of evaluating what custody arrangements are in best interest of child, redefines term "extended family", provides that grandparents of minor child may bring proceedings in circuit court to determine temporary custody of child under certain circumstances, revises language re action by grandparent for right of visitation. Amends FS Effective Date 10/01/1997

- 02/07/97 HOUSE Prefiled
- 02/21/97 HOUSE Referred to Family Law & Children (JC), Civil Justice & Claims (JC), Children & Family Empowerment (GSC), Rules, Resolutions, & Ethics (PC)
- 03/04/97 HOUSE Introduced, referred to Family Law & Children (JC), Civil Justice & Claims (JC), Children & Family Empowerment (GSC), Rules, Resolutions, & Ethics (PC) —HJ 00076
- 03/13/97 HOUSE Withdrawn from Family Law & Children (JC), Civil Justice & Claims (JC), Children & Family Empowerment (GSC), Rules, Resolutions, & Ethics (PC) —HJ 00179, Filed and not referred —HJ 00179
- 03/17/97 HOUSE Referred to Family Law & Children (JC), Civil Justice & Claims (JC), Children & Family Empowerment (GSC), Rules, Resolutions, & Ethics (PC) —HJ 00239
- 03/25/97 HOUSE Withdrawn from Family Law & Children (JC), Civil Justice & Claims (JC), Children & Family Empowerment (GSC), Rules, Resolutions, & Ethics (PC), Withdrawn from further consideration —HJ 00306

H 481

- 02/18/97 HOUSE Withdrawn

H 483 GENERAL BILL by Geller; Ogles, (CO-SPONSORS) Bainter; Stabins; Lawson, Bradley; Feeney (Similar S 0814, Compare CS/IST ENG/H 1549, CS/IST ENG/S 1286)

Insurance Rates & Contracts, revises definition re "nonpayment of premium", increases certain allowable per-policy application fees, revises limitations. Amends 627 728, 7295 Effective Date Upon becoming law

- 02/07/97 HOUSE Prefiled
- 02/17/97 HOUSE Referred to Financial Services (EIC), Finance & Taxation (FRC)
- 03/04/97 HOUSE Introduced, referred to Financial Services (EIC), Finance & Taxation (FRC) —HJ 00076
- 05/01/97 HOUSE Withdrawn from Financial Services (EIC), Finance & Taxation (FRC) Withdrawn from further cons. (Iden/Sim/Compare Bills) passed, refer to CS/SB 1286 (Ch 97-178) —HJ 01725

H 485 GENERAL BILL by Hill, (CO-SPONSORS) Feeney, Ziebarth (Similar IST ENG/S 0152)

Controlled Substances prohibits sale, manufacture, delivery, or possession with intent to sell, manufacture, or deliver any controlled substance within specified distance of property used for religious services or property on which specified business enterprises conduct business, prescribes sentencing guideline offense levels. Amends 893 13, 921 0012 Effective Date 10/01/1997

- 02/07/97 HOUSE Prefiled
- 02/17/97 HOUSE Referred to Crime & Punishment (JC), Criminal Justice Appropriations
- 03/04/97 HOUSE Introduced, referred to Crime & Punishment (JC), Criminal Justice Appropriations —HJ 00076
- 03/31/97 HOUSE On Committee agenda—Crime & Punishment (JC), 04/04/97 8 00 am 21-HOB
- 04/04/97 HOUSE Comm Action Unanimously Favorable with 2 amendment(s) by Crime & Punishment (JC) —HJ 00531
- 04/11/97 HOUSE Now in Criminal Justice Appropriations —HJ 00531

H 485 (CONTINUED)

- 04/16/97 HOUSE Withdrawn from Criminal Justice Appropriations —HJ 00574
- 04/17/97 HOUSE Pending Consent Calendar
- 04/21/97 HOUSE Available for Consent Calendar
- 04/24/97 HOUSE Placed on Consent Calendar
- 04/25/97 HOUSE Senate Bill substituted, Laid on Table, Iden/Sim/Compare Bills) passed, refer to SB 152 (Ch 97-43) —HJ 00901

H 487 GENERAL BILL/CS/IST ENG by Financial Services (EIC); Dennis (Identical CS/IST ENG/S 1402)

Premium Finance Companies/Agreements, revises net worth requirements for applicant for premium finance co license, authorizes surety bond with reduced net worth requirement, requires that such companies maintain Errors & Omissions Coverage & provides exception, revises prohibited acts by premium finance company, requires notification to insured by insurer & premium finance company on canceled insurance contract, amount of any unearned premium & unearned commission, etc. Amends Ch 627 Effective Date 05/30/1997

- 02/07/97 HOUSE Prefiled
- 02/17/97 HOUSE Referred to Financial Services (EIC)
- 03/04/97 HOUSE Introduced, referred to Financial Services (EIC) —HJ 00076
- 03/20/97 HOUSE On Committee agenda—Financial Services (EIC), 03/26/97, 3 00 pm, Morris Hall
- 03/26/97 HOUSE Comm Action —Unanimously CS by Financial Services (EIC) —HJ 00493
- 04/09/97 HOUSE CS read first time on 04/09/97 —HJ 00486
- 04/10/97 HOUSE Pending Consent Calendar —HJ 00493
- 04/14/97 HOUSE Available for Consent Calendar
- 04/16/97 HOUSE Placed on Consent Calendar, Temporarily postponed, on Second Reading, Available for Consent Calendar
- 04/17/97 HOUSE Placed on Consent Calendar, Read second and third times —HJ 00607, CS passed, YEAS 116 NAYS 0 —HJ 00607, Immediately certified —HJ 00647
- 04/17/97 SENATE In Messages
- 04/24/97 SENATE Received, referred to Banking and Insurance —SJ 00600
- 04/25/97 SENATE Withdrawn from Banking and Insurance —SJ 00614, Substituted for CS/SB 1402 —SJ 00614, Read second time —SJ 00614, Amendment(s) adopted —SJ 00614, Read third time —SJ 00615, CS passed as amended, YEAS 37 NAYS 0 —SJ 00615, Immediately certified —SJ 00615
- 04/25/97 HOUSE In returning messages
- 05/01/97 HOUSE Concurred —HJ 01401, CS passed as amended, YEAS 115 NAYS 0 —HJ 01402, Ordered engrossed, then enrolled —HJ 01402
- 05/14/97 Signed by Officers and presented to Governor
- 05/30/97 Became Law without Governor's Signature, Chapter No 97-204

H 489 GENERAL BILL by Minton, (CO-SPONSORS) Feeney (Identical S 1034)

Ad Valorem Tax/Agricultural Crops, provides that property appraiser, when considering specified use factors applicable to agricultural assessment, may rely on 5-year moving average data for certain crops. Amends 193 461 Effective Date 01/01/1998

- 02/10/97 HOUSE Prefiled
- 02/17/97 HOUSE Referred to Agriculture (GRC), Community Affairs (GRC), Finance & Taxation (FRC)
- 03/04/97 HOUSE Introduced, referred to Agriculture (GRC), Community Affairs (GRC), Finance & Taxation (FRC) —HJ 00076
- 05/02/97 HOUSE Carried over to 1998 Session pursuant to House Rule 96 In House Committee on Agriculture (GRC)

H 491 GENERAL BILL by Laurent, (CO-SPONSORS) Feeney; Lynn; Argenziano, Putnam; Culp (Identical S 2054, Similar H 1759)

Citizen Support Organizations, clarifies sales & use tax exemption for certain citizen support organizations, provides for partnerships between state & private entities for certain purposes. Amends 212 08, 370 0205 Effective Date 05/30/1997

- 02/10/97 HOUSE Prefiled
- 02/21/97 HOUSE Referred to Water & Resource Management (GRC), General Government Appropriations
- 03/04/97 HOUSE Introduced, referred to Water & Resource Management (GRC), General Government Appropriations —HJ 00076
- 03/05/97 HOUSE On Committee agenda—Water & Resource Management (GRC), 03/11/97, 1 30 pm, 102-HOB
- 03/11/97 HOUSE Comm Action Unanimously Favorable by Water & Resource Management (GRC) —HJ 00199
- 03/12/97 HOUSE Now in General Government Appropriations —HJ 00199
- 04/01/97 HOUSE Withdrawn from General Government Appropriations —HJ 00355
- 04/02/97 HOUSE Pending Consent Calendar
- 04/04/97 HOUSE Available for Consent Calendar
- 04/16/97 HOUSE Placed on Consent Calendar, Read second and third times —HJ 00576 Passed, YEAS 116 NAYS 0 —HJ 00577

HISTORY OF SENATE BILLS

S 1384 (CONTINUED)

- operation, & funding of such academies provides criteria for participation
Amends 230 2316 Effective Date 07/01/1997
03/04/97 SENATE Filed
03/12/97 SENATE Introduced, referred to Education Ways and Means -SJ 00157
03/14/97 SENATE On Committee agenda—Education 03/18/97, 9 00 am, Room-A(11-37)
03/18/97 SENATE Comm Action CS by Education -SJ 00253 CS read first time on 03/20/97 -SJ 00264
03/20/97 SENATE Now in Ways and Means -SJ 00253
04/16/97 SENATE On Committee agenda—Ways and Means, 04/16/97 1 00 pm Room EL—Not considered -SJ 00481
04/18/97 SENATE On Committee agenda—Ways and Means, 04/23/97, 2 00 pm, Room-EL—Not considered
04/24/97 SENATE On Committee agenda—Ways and Means 04/25/97, 9 00 am, Room-EL—Not considered
05/02/97 SENATE Died in Committee on Ways and Means

S 1386 GENERAL BILL by Hargrett (Identical H 1475)

- Young Rights/Convicted Felon, provides that convicted felon who is incarcerated or who is on probation, parole, or community control may not vote, provides for automatic restoration of right to vote on specified date after completion of sentence Amends 97 041 Effective Date 07/01/1997
03/04/97 SENATE Filed
03/12/97 SENATE Introduced, referred to Executive Business Ethics and Elections -SJ 00157
04/15/97 SENATE On Committee agenda—Executive Business, Ethics and Elections, 04/17/97 1 30 pm, Room-1C(309)—Temporarily postponed
05/02/97 SENATE Died in Committee on Executive Business Ethics and Elections

S 1388 GENERAL BILL by Dyer; (CO-SPONSORS) Latvala (Similar H 1339, Compare CS/3RD ENG/H 0715, H 1321, CS/S 1428, S 1562)

- Water Policy/Rates & Use Plans, (THIS BILL COMBINED IN CS/S1428,1388,1562,1252) directs PSC to consider additional factors in setting water utility rates, provides for role of various levels of government in water supply development & water resource dev., eliminates state water use plan & provides guidelines for development of Fla. water plan & WMD plans, provides for coordination of PSC, DEP, WMDs in regulation of certain water utilities, etc Amends Chs 367, 373, 403 Effective Date Upon becoming law
03/04/97 SENATE Filed
03/12/97 SENATE Introduced, referred to Natural Resources, Regulated Industries, Ways and Means -SJ 00157
04/11/97 SENATE On Committee agenda—Natural Resources, 04/15/97, 2 00 pm, Room-A(11-37)—Not considered
04/16/97 SENATE On Committee agenda—Natural Resources, 04/18/97, 12 00 Noon Room-A(11-37)
04/18/97 SENATE CS combines this bill with 1428, 1562 & 1252, Comm Action CS by Natural Resources -SJ 00584, Original bill laid on Table, refer to combined CS/SB 1428 (Laid on Table in Senate), Refer to CS/HB 715 (Ch 97-160)

S 1390 GENERAL BILL by Grant

- Dietetics/Nutritionists/Licensure, repeals exemption from licensure for certain persons employed in dietetic departments of health care facilities Amends 468 505 Effective Date 10/01/1997
03/04/97 SENATE Filed
03/12/97 SENATE Introduced, referred to Health Care, Governmental Reform and Oversight -SJ 00157
04/10/97 SENATE On Committee agenda—Health Care, 04/14/97, 1 00 pm, Room-EL—Not considered
04/15/97 SENATE On Committee agenda—Health Care, 04/17/97, 4 00 pm, Room-EL—Not considered
05/02/97 SENATE Died in Committee on Health Care

S 1392 GENERAL BILL by Jones (Identical H 0949)

- Tangible Personal Property/Donations, provides exemption for tangible personal property donated by donor to nonprofit organization that holds current certificate of exemption, provides that no tax imposed by provisions re tax on sales, use, & other transactions, before effective date of act & not actually collected on transactions qualified for such exemption shall be due from any person Amends 212 06 Effective Date Upon becoming law
03/04/97 SENATE Filed
03/12/97 SENATE Introduced, referred to Commerce and Economic Opportunities, Ways and Means -SJ 00157
05/02/97 SENATE Died in Committee on Commerce and Economic Opportunities

S 1394 GENERAL BILL by Jones (Similar H 1025, Compare S 1462)

- Medical Quality Assurance TE, creates Medical Quality Assurance Trust Fund within Health Dept., provides for sources of moneys & purposes, provides for annual carryforward of funds, provides for future review & termination or re-creation of trust fund Effective Date 07/01/1997 if enacted by 3/5ths vote of membership of each house of Legislature
03/04/97 SENATE Filed

S 1394 (CONTINUED)

- 03/12/97 SENATE Introduced, referred to Health Care, Ways and Means -SJ 00157
04/24/97 SENATE Withdrawn from Health Care, Ways and Means -SJ 00535, Withdrawn from further cons. (Ident/Sim/Compare Bills) passed, refer to HB 1025 (Ch 97-119) -SJ 00535

S 1396 GENERAL BILL/CS by Governmental Reform and Oversight, Cowin (Similar CS/H 1105)

- Public Records/Minors/Statements, provides exemption from public records requirements for videotaped statement of minor who is victim of specified crimes involving sexual battery, lewd acts, or other sexual misconduct which statement reveals personal identifying information about victim, authorizes access by governmental agency, provides for future review & repeal, provides finding of public necessity Amends 119 07 Effective Date Upon becoming law
03/04/97 SENATE Filed
03/12/97 SENATE Introduced, referred to Governmental Reform and Oversight -SJ 00157
04/04/97 SENATE On Committee agenda—Governmental Reform and Oversight, 04/08/97, 2 00 pm, Room-1C(309)
04/08/97 SENATE Comm Action -CS by Governmental Reform and Oversight -SJ 00463, CS read first time on 04/10/97 -SJ 00465
04/10/97 SENATE Placed on Calendar -SJ 00463
05/02/97 SENATE Died on Calendar

S 1398 GENERAL BILL/CS by Health Care; Cowin; (CO-SPONSORS) Brown-Waite, Williams; Clary, Lee; Horne, Bronson, Ostalkewicz, Grant; Casas; Diaz-Balart; Dudley; Harris; McKay (Similar CS/1ST ENG/H 1227, Compare CS/2ND ENG/H 1205)

- Partial-birth Abortion, prohibits partial-birth abortion, provides penalty, civil liability & for relief, expands scope of definitions, defines "partial-birth abortion" Amends 396 001, 011, 002, creates 390 0111, 0112 Effective Date Upon becoming law
03/04/97 SENATE Filed
03/12/97 SENATE Introduced, referred to Health Care, Judiciary Ways and Means -SJ 00157
04/10/97 SENATE On Committee agenda—Health Care, 04/14/97, 1 00 pm, Room-EL—Temporarily postponed
04/15/97 SENATE On Committee agenda—Health Care, 04/17/97, 4 00 pm, Room-EL
04/17/97 SENATE Comm Action CS by Health Care -SJ 00584, CS read first time on 04/24/97 -SJ 00590
04/18/97 SENATE Now in Judiciary -SJ 00584
04/28/97 SENATE Withdrawn from Judiciary, Ways and Means -SJ 00664, Placed on Calendar
04/30/97 SENATE Placed on Special Order Calendar -SJ 01096
05/01/97 SENATE Placed on Special Order Calendar -SJ 00957, -SJ 01096, Read second time -SJ 01147, Amendment(s) adopted -SJ 01147, House Bill substituted -SJ 01147, Laid on Table, refer to CS/HB 1227 (Vetoed by Governor), See also CS/HB 1205 (Ch 97-151)

S 1400 GENERAL BILL by McKay (Similar H 1085)

- Legislative Members/Consulting Fees, prohibits members from receiving certain consulting fees Amends 112 313 Effective Date Upon becoming law
03/04/97 SENATE Filed
03/12/97 SENATE Introduced, referred to Executive Business, Ethics and Elections, Rules and Calendar -SJ 00158
05/02/97 SENATE Died in Committee on Executive Business, Ethics and Elections

S 1402 GENERAL BILL/CS/1ST ENG by Banking and Insurance; Hargrett (Identical CS/1ST ENG/H 0487)

- Premium Finance Companies/Agreements, revises net worth requirements for applicant for premium finance co license, authorizes surety bond with reduced net worth requirement, requires that such companies maintain Errors & Omissions Coverage & provides exception, revises prohibited acts by premium finance company, requires notification to insured by insurer & premium finance company on canceled insurance contract, amount of any unearned premium & unearned commission, etc Amends Ch 627 Effective Date Upon becoming law
03/04/97 SENATE Filed
03/12/97 SENATE Introduced, referred to Banking and Insurance -SJ 00158
03/21/97 SENATE On Committee agenda—Banking and Insurance, 03/25/97, 9 00 am, Room-EL
03/25/97 SENATE Comm Action -CS by Banking and Insurance -SJ 00316, CS read first time on 03/27/97 -SJ 00319
03/27/97 SENATE Placed on Calendar -SJ 00316
04/24/97 SENATE Placed on Special Order Calendar -SJ 00583, Read second time -SJ 00554, Amendment(s) adopted -SJ 00554, Ordered engrossed -SJ 00554
04/25/97 SENATE House Bill substituted -SJ 00614, Laid on Table, Ident/Sim/Compare Bills) passed refer to CS/HB 487 (Ch 97-204)

CITATOR—BILLS INTRODUCED AND PASSED

(Citator reflects Florida Statute numbers listed in final passed bill—not necessarily final statutory placement. Verify with F.S. tracing tables.)

FLORIDA STATUTE CHAPTER 626 (CONT.)			FLORIDA STATUTE CHAPTER 627 (CONT.)			FLORIDA STATUTE CHAPTER 627 (CONT.)		
626 944	S 770, H 349	S 2142,	627 4301	S 138, H 127	H 37(97-182),	627 6675	<u>S 438(97-102)</u> , H 1967	<u>S 1682(97-179)</u> ,
626 945	<u>S 438(97-102)</u> , H 349	S 2142,	627 4555	<u>S 840(97-292)</u> , H 1943	S 898,	627 668	S 274, H 41,	S 1590, H 1925
626 9541	<u>S 438(97-102)</u> ,	S 2196	627 476	<u>S 640(97-292)</u> ,	H 1943	627 6681	S 274,	H 41
626 9571	<u>S 438(97-102)</u>		627 481	<u>S 416(97-93)</u>		627 6692	<u>S 438(97-102)</u>	
626 9581	<u>S 438(97-102)</u>		627 5045	<u>S 840(97-292)</u> , H 1943	S 898,	627 6699	<u>S 438(97-102)</u> , S 848, <u>S 1682(97-179)</u> ,	<u>S 530(97-48)</u> , S 916, S 1772,
626 9641	S 286		627 553	<u>S 438(97-102)</u>			S 2304,	H 453,
626 988	S 426,	<u>S 438(97-102)</u>	627 555	<u>S 438(97-102)</u>			H 573, H 1701,	H 781, <u>H 1785(97-166)</u> ,
626 989	<u>S 438(97-102)</u> , S 2352, S 1172,	S 1172, H 1081 H 1081	627 560	<u>S 438(97-102)</u>		627 6785	S 1346,	H 1163
626 9891	S 1172,	H 1081	627 561	<u>S 438(97-102)</u>		627 679	<u>S 438(97-102)</u>	
626 99	<u>S 438(97-102)</u>		627 562	<u>S 438(97-102)</u>		627 681	<u>S 438(97-102)</u>	
626 9911	<u>S 416(97-93)</u>		627 566	<u>S 438(97-102)</u>		627 682	S 1346,	H 1183
626 9912	S 816, H 1921	S 1636,	627 567	<u>S 438(97-102)</u>		627 6841	<u>S 438(97-102)</u>	
626 9913	S 1636,	H 1921	627 568	<u>S 438(97-102)</u>		627 6843	<u>S 438(97-102)</u>	
626 9916	<u>S 416(97-93)</u> ,	S 816	627 571	<u>S 438(97-102)</u>		627 701	<u>S 416(97-93)</u> , <u>S 794(97-55)</u> ,	<u>S 438(97-102)</u> , H 1815
626 9923	S 1636,	H 1921	627 6044	<u>S 438(97-102)</u>		627 7013	<u>S 416(97-93)</u>	
626 9924	S 1636,	H 1921	627 619	<u>S 438(97-102)</u>		627 7014	<u>S 416(97-93)</u>	
626 993	S 1636,	H 1921	627 621	<u>S 438(97-102)</u>		627 702	<u>S 438(97-102)</u>	
			627 624	<u>S 438(97-102)</u>		627 7051	S 1030,	H 1039
			627 6401	<u>S 438(97-102)</u>		627 727	<u>S 438(97-102)</u> , H 1549,	S 1266, H 1801
			627 6406	<u>S 1682(97-179)</u> ,	H 1967	627 7275	<u>S 438(97-102)</u>	
			627 6416	S 2346,	H 1785(97-166)	627 728	<u>S 438(97-102)</u> , <u>S 1286(97-178)</u> ,	S 814, H 483,
			627 6417	<u>S 530(97-48)</u> , S 916, H 453, H 781	S 848, S 1150, H 573,	627 7286	<u>S 438(97-102)</u>	
			627 64171	<u>S 530(97-48)</u>		627 7288	<u>S 1286(97-178)</u> ,	S 1616,
			627 64172	<u>S 530(97-48)</u>		627 7295	S 814,	H 483
			627 64175	S 848, H 781	H 453,	627 72951	<u>S 1286(97-178)</u> ,	H 1549
			627 64185	S 530,	H 689	627 732	S 28, <u>H 9(97-54)</u>	<u>S 438(97-102)</u> ,
			627 6419	S 136, S 552,	<u>S 530(97-48)</u> , <u>H 37(97-182)</u>	627 733	S 28, S 2284, H 1553	<u>S 438(97-102)</u> , <u>H 9(97-84)</u> ,
			627 64195	S 1890		627 736	<u>S 438(97-102)</u> ,	S 1326, S 1974, H 727,
			627 6425	<u>S 1682(97-179)</u> ,	H 1967	627 737	<u>S 438(97-102)</u>	
			627 646	<u>S 438(97-102)</u>		627 743	S 560,	H 1127
			627 6471	S 1070,	H 1021 S 274, H 41, H 1021	627 745	S 770	
			627 6472	<u>S 244(97-171)</u> , S 1070, H 365,	S 274, H 41, H 1021 H 1967	627 776	S 2196	
			627 6475	<u>S 1682(97-179)</u> ,	H 1967	627 828	S 1402,	<u>H 487(97-204)</u>
			627 6482	S 1814,	H 2013(97-264)	627 832	<u>S 438(97-102)</u>	
			627 6486	<u>S 438(97-102)</u>		627 835	<u>S 438(97-102)</u>	
			627 6487	<u>S 1682(97-179)</u> ,	H 1967	627 836	<u>S 438(97-102)</u>	
			627 64871	<u>S 1682(97-179)</u> ,	H 1967	627 837	<u>S 418(97-94)</u>	
			627 6488	<u>S 438(97-102)</u>		627 839	<u>S 438(97-102)</u>	
			627 6489	<u>S 1682(97-179)</u> ,	H 1967	627 840	<u>S 438(97-102)</u>	
			627 651	<u>S 530(97-48)</u> , S 916, H 781	S 848, H 453,	627 8405	S 1402,	<u>H 487(97-204)</u>
			627 6512	<u>S 1682(97-179)</u> ,	H 1967	627 841	<u>S 438(97-102)</u> ,	H 363
			627 6515	S 274, S 648, S 1682, H 453,	<u>S 530(97-48)</u> , S 916, H 41, H 781	627 842	<u>S 438(97-102)</u>	
			627 6516	<u>S 438(97-102)</u>		627 843	<u>S 438(97-102)</u>	
			627 6561	<u>S 1682(97-179)</u> ,	H 1967	627 844	<u>S 438(97-102)</u>	
			627 65615	<u>S 1682(97-179)</u> ,	H 1967	627 845	<u>S 438(97-102)</u>	
			627 65625	<u>S 1682(97-179)</u> ,	H 1967	627 848	<u>S 438(97-102)</u> , <u>H 467(97-204)</u>	S 1402,
			627 657	<u>S 438(97-102)</u>		627 912	<u>S 948(97-273)</u> , S 2142, H 1925(97-261),	S 1590, H 1357(97-237), H 1993
			627 6571	<u>S 1682(97-179)</u> ,	H 1967	627 9404	<u>S 1682(97-179)</u> ,	H 1967
			627 6574	<u>S 1682(97-179)</u> ,	H 1967	627 9407	<u>S 1682(97-179)</u> ,	H 1967
			627 6576	<u>S 1682(97-179)</u> ,	H 1967	627 94071	<u>S 1682(97-179)</u> ,	H 1967
			627 6577	S 1298		627 94072	<u>S 1682(97-179)</u> ,	H 1967
			627 6579	S 2346,	<u>H 1785(97-166)</u>	627 94073	<u>S 1682(97-179)</u> ,	H 1967
			627 659	<u>S 416(97-93)</u>		627 94074	<u>S 1682(97-179)</u> ,	H 1967
			627 6612	<u>S 530(97-48)</u> , S 916, H 573	S 848, H 453, H 781	627 94075	S 1682	
			627 66121	<u>S 530(97-48)</u>		627 944	<u>S 438(97-102)</u> ,	S 816
			627 66122	<u>S 530(97-48)</u>		627 948	<u>S 438(97-102)</u> ,	S 816
			627 66125	S 530		627 952	<u>S 438(97-102)</u>	
			627 6614	S 848 H 781	H 659 H 453,	627 971	<u>S 438(97-102)</u>	
			627 664	<u>S 438(97-102)</u>				
			627 6645	<u>S 438(97-102)</u>				

(BILLS UNDERLINED HAVE PASSED BOTH CHAMBERS;
CITATOR INCLUDES COMMITTEE SUBS & AMENDED BILLS

(CONTINUED ON NEXT PAGE)

By Senator Hargrett

21-779A-97

1 A bill to be entitled

2 An act relating to premium finance companies
3 and agreements; amending s. 627.828, F.S.;
4 revising the net worth requirements for an
5 applicant for a premium finance company
6 license; authorizing a surety bond with a
7 reduced net worth requirement; requiring that
8 premium finance companies maintain Errors and
9 Omissions Coverage; amending s. 627.848, F.S.;
10 requiring unearned premiums on a canceled
11 insurance contract to be refunded by a premium
12 finance company to the insured in the case of
13 personal lines insurance and to the insured or
14 agent or both for the benefit of the insured in
15 the case of commercial insurance; providing an
16 effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:19
20 Section 1. Section 627.828, Florida Statutes, is
21 amended to read:

22 627.828 License required.--

23 (1) Except as provided in ss. 627.901 and 627.902, no
24 person shall engage in the business of a premium finance
25 company unless licensed by the department. Every premium
26 finance company licensed under the provisions of this part
27 shall maintain at all times a net worth of \$35,000. However,
28 in lieu of having a net worth of \$35,000, a premium finance
29 company that has a net worth of \$10,000 may file a surety bond
30 or other acceptable collateral with the department as approved

1 by it in the amount of \$35,000, which bond or collateral must
2 be maintained.

3 (2) The application for a license shall be in writing
4 and in the form prescribed by the department. Every applicant
5 shall provide evidence proof of a net worth of \$35,000
6 attested by two officers of the company, or a \$35,000 surety
7 bond and evidence of a net worth of \$10,000 attested by two
8 officers of the company. Assets to be used in computing the
9 required net worth shall be determined by rules adopted by the
10 department.

11 (3) Each premium finance company authorized under the
12 provisions of this part shall maintain at all times an Errors
13 and Omissions insurance policy of no less than \$500,000.

14 ~~(4)~~(3) A single license shall entitle the holder to
15 operate more than one office.

16 ~~(5)~~(4) At the time of filing an application for a
17 license, the applicant shall pay to the department the license
18 fee and, upon original application or upon application
19 subsequent to denial of application, or revocation, suspension
20 or surrender of a license, an investigation fee.

21 ~~(6)~~(5) Such license shall state the name and address
22 of the licensee, and a copy shall be kept conspicuously posted
23 in each office of the licensee and shall not be transferable
24 or assignable.

25 ~~(7)~~(6) Prior to moving an existing office to another
26 location, a licensee shall notify the department in writing of
27 its intention to do so.

28 Section 2. Section 627.848, Florida Statutes, 1996
29 Supplement, is amended to read:

30 627.848 Cancellation of insurance contract upon
31 default.--

1 (1) When a premium finance agreement contains a power
2 of attorney or other authority enabling the premium finance
3 company to cancel any insurance contract listed in the
4 agreement, the insurance contract shall not be canceled unless
5 cancellation is in accordance with the following provisions:

6 (a)1. Not less than 10 days' written notice shall be
7 mailed to each insured shown on the premium finance agreement
8 of the intent of the premium finance company to cancel his
9 insurance contract unless the defaulted installment payment is
10 received within 10 days.

11 2. After expiration of such period, the premium
12 finance company shall mail to the insurer a request for
13 cancellation, specifying the effective date of cancellation
14 and the unpaid premium balance due under the finance contract,
15 and shall mail a copy thereof to the insured at his last known
16 address as shown on the premium finance agreement.

17 (b) Every notice of cancellation shall include, in
18 type or print of which its face shall not be smaller than 12
19 points, a statement that, if the insurance contract or
20 contracts provide motor vehicle liability insurance required
21 by the financial responsibility law, proof of financial
22 responsibility is required to be maintained continuously for a
23 period of 3 years, pursuant to chapter 324, and the operation
24 of a vehicle without such financial responsibility is
25 unlawful.

26 (c) Upon receipt of a copy of the cancellation notice
27 by the insurer or insurers, the insurance contract shall be
28 canceled as of the date specified in the cancellation notice
29 with the same force and effect as if the notice of
30 cancellation had been submitted by the insured himself,
31 whether or not the premium finance company has complied with

1 the notice requirement of this subsection, without requiring
2 any further notice to the insured or the return of the
3 insurance contract.

4 (d) All statutory, regulatory, and contractual
5 restrictions providing that the insured may not cancel his
6 insurance contract unless he or the insurer first satisfies
7 such restrictions by giving a prescribed notice to a
8 governmental agency, the insurance carrier, a mortgagee, an
9 individual, or a person designated to receive such notice for
10 such governmental agency, insurance carrier, or individual
11 shall apply when cancellation is effected under the provisions
12 of this section. The insurer, in accordance with such
13 prescribed notice when it is required to give such notice in
14 behalf of itself or the insured, shall give notice to such
15 governmental agency, person, mortgagee, or individual; and it
16 shall determine and calculate the effective date of
17 cancellation from the day it receives the copy of the notice
18 of cancellation from the premium finance company.

19 (e) Whenever an insurance contract is canceled in
20 accordance with this section, the insurer shall promptly
21 return the unpaid balance due under the finance contract, up
22 to the gross amount available, which includes unearned
23 commissions, upon the cancellation of the policy, to the
24 premium finance company, which shall, after satisfaction of
25 the premium finance contract, return and any remaining
26 unearned premium to ~~the agent or the insured~~ in the case of
27 personal lines insurance, or to the agent or insured, or both,
28 in the case of commercial insurance, for the benefit of the
29 insured or insureds.

30 (f) If an insurance contract is canceled by an insurer
31 upon the receipt of a copy of the cancellation notice from a

1 premium finance company, and if such premium finance company
2 has failed to provide the notice required by this subsection,
3 the insured shall have a cause of action against the premium
4 finance company for damages caused by such failure to provide
5 notice.

6 (2) Any court of this state rendering or affirming a
7 judgment or decree against a premium finance company and in
8 favor of any named or omnibus insured or beneficiary arising
9 out of a wrongful or improper cancellation of an insurance
10 policy by such premium finance company shall award reasonable
11 attorney's fees to the insured or beneficiary.

12 Section 3. This act shall take effect upon becoming a
13 law.

14 *****

15 SENATE SUMMARY

16 Revises the net worth requirements for an applicant for a
17 premium finance company license. Allows a premium finance
18 company with a reduced net worth to file with the
19 Department of Insurance and maintain a surety bond in the
20 amount of \$35,000. Requires premium finance companies to
21 maintain errors and omissions coverage. Requires that
22 unearned premiums on a canceled insurance contract be
23 refunded by a premium finance company to the insured for
24 personal lines insurance and to the insured or agent or
25 both for the insured's benefit in the case of commercial
26 insurance.

311-1733-97

A bill to be entitled

An act relating to premium finance companies and agreements; amending s. 627.828, F.S.; revising the net worth requirements for an applicant for a premium finance company license; authorizing a surety bond with a reduced net worth requirement; requiring that premium finance companies maintain Errors and Omissions Coverage and providing an exception; amending s. 627.8405, F.S.; revising prohibited acts by a premium finance company; amending s. 627.848, F.S.; requiring unearned premiums on a canceled insurance contract to be refunded by a premium finance company to the insured in the case of personal lines insurance and to the insured or agent or both for the benefit of the insured in the case of commercial insurance; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 627.828, Florida Statutes, is amended to read:

627.828 License required.--

(1) Except as provided in ss. 627.901 and 627.902, no person shall engage in the business of a premium finance company unless licensed by the department. Every premium finance company licensed under the provisions of this part shall maintain at all times a net worth of \$35,000. However, in lieu of having a net worth of \$35,000, a premium finance company that has a net worth of \$10,000 may file a surety bond

1 or other acceptable collateral with the department as approved
2 by it in the amount of \$35,000, which bond or collateral must
3 be maintained.

4 (2) The application for a license shall be in writing
5 and in the form prescribed by the department. Every applicant
6 shall provide evidence proof of a net worth of \$35,000
7 attested by two officers of the company, or a \$35,000 surety
8 bond and evidence of a net worth of \$10,000 attested by two
9 officers of the company. Assets to be used in computing the
10 required net worth shall be determined by rules adopted by the
11 department.

12 (3)(a) Each premium finance company authorized under
13 the provisions of this part shall maintain at all times an
14 errors and omissions insurance policy of no less than \$500,000
15 covering the acts of its officers, employees, and agents. The
16 policy may contain reasonable deductibles not to exceed 2
17 percent of the policy limits.

18 (b)1. A premium finance company with an unencumbered
19 net worth of at least \$15 million may self-insure the errors
20 and omissions coverage if it meets the requirements of this
21 paragraph.

22 2. To qualify as a self-insurer the premium finance
23 company must:

24 a. Have and maintain an unencumbered net worth of \$15
25 million, which shall be determined based on assets permissible
26 for insurers pursuant to ss. 625.012 and 625.031;

27 b. Annually demonstrate as part of its annual report,
28 to the satisfaction of the department, that the net-worth
29 requirement is being met; and

1 c. Obtain, as a part of its annual application for
2 licensure as a premium finance company, a certificate of
3 self-insurance from the department to be renewed annually.

4 3. If the department finds that the premium finance
5 company:

6 a. Is not maintaining at all times an unencumbered net
7 worth of at least \$15 million; or

8 b. Is not, in good faith, covering the errors and
9 omissions of its officers, employees and agents,

10
11 the department shall, in addition to other penalties under
12 this code, revoke or suspend the certificate of
13 self-insurance, and the premium finance company shall be
14 subject to the requirements of paragraph (a).

15 (c) The department may adopt rules necessary to
16 administer this subsection, including rules prescribing the
17 necessary forms.

18 ~~(4)~~⁽³⁾ A single license shall entitle the holder to
19 operate more than one office.

20 ~~(5)~~⁽⁴⁾ At the time of filing an application for a
21 license, the applicant shall pay to the department the license
22 fee and, upon original application or upon application
23 subsequent to denial of application, or revocation, suspension
24 or surrender of a license, an investigation fee.

25 ~~(6)~~⁽⁵⁾ Such license shall state the name and address
26 of the licensee, and a copy shall be kept conspicuously posted
27 in each office of the licensee and shall not be transferable
28 or assignable.

29 ~~(7)~~⁽⁶⁾ Prior to moving an existing office to another
30 location, a licensee shall notify the department in writing of
31 its intention to do so.

1 Section 2. Section 627.8405, Florida Statutes, is
2 amended to read:

3 627.8405 Prohibited acts premium financing.--No
4 premium finance company shall, in a premium finance agreement
5 or other agreement, finance the cost of or otherwise provide
6 for the collection or remittance of dues, assessments, fees,
7 or other periodic payments of money ~~provide-financing~~ for the
8 cost of:

9 (1) A membership in an automobile club. The term
10 "automobile club" means a legal entity which, in consideration
11 of dues, assessments, or periodic payments of money, promises
12 its members or subscribers to assist them in matters relating
13 to the ownership, operation, use, or maintenance of a motor
14 vehicle; however, this definition of "automobile club" does
15 not include persons, associations, or corporations which are
16 organized and operated solely for the purpose of conducting,
17 sponsoring, or sanctioning motor vehicle races, exhibitions,
18 or contests upon racetracks, or upon racecourses established
19 and marked as such for the duration of such particular events.
20 The words "motor vehicle" used herein have the same meaning as
21 defined in chapter 320.

22 (2) An accidental death and dismemberment policy sold
23 in combination with a personal injury protection and property
24 damage only policy.

25 (3) Any product not regulated under the provisions of
26 this insurance code.

27
28 This section also applies to premium financing by any
29 insurance agent or insurance company under part XVI. The
30 department shall promulgate rules to assure disclosure, at the
31

1 time of sale, of coverages financed with personal injury
2 protection.

3 Section 3. Section 627.848, Florida Statutes, 1996
4 Supplement, is amended to read:

5 627.848 Cancellation of insurance contract upon
6 default.--

7 (1) When a premium finance agreement contains a power
8 of attorney or other authority enabling the premium finance
9 company to cancel any insurance contract listed in the
10 agreement, the insurance contract shall not be canceled unless
11 cancellation is in accordance with the following provisions:

12 (a)1. Not less than 10 days' written notice shall be
13 mailed to each insured shown on the premium finance agreement
14 of the intent of the premium finance company to cancel his
15 insurance contract unless the defaulted installment payment is
16 received within 10 days.

17 2. After expiration of such period, the premium
18 finance company shall mail to the insurer a request for
19 cancellation, specifying the effective date of cancellation
20 and the unpaid premium balance due under the finance contract,
21 and shall mail a copy thereof to the insured at his last known
22 address as shown on the premium finance agreement.

23 (b) Every notice of cancellation shall include, in
24 type or print of which its face shall not be smaller than 12
25 points, a statement that, if the insurance contract or
26 contracts provide motor vehicle liability insurance required
27 by the financial responsibility law, proof of financial
28 responsibility is required to be maintained continuously for a
29 period of 3 years, pursuant to chapter 324, and the operation
30 of a vehicle without such financial responsibility is
31 unlawful.

1 (c) Upon receipt of a copy of the cancellation notice
2 by the insurer or insurers, the insurance contract shall be
3 canceled as of the date specified in the cancellation notice
4 with the same force and effect as if the notice of
5 cancellation had been submitted by the insured himself,
6 whether or not the premium finance company has complied with
7 the notice requirement of this subsection, without requiring
8 any further notice to the insured or the return of the
9 insurance contract.

10 (d) All statutory, regulatory, and contractual
11 restrictions providing that the insured may not cancel his
12 insurance contract unless he or the insurer first satisfies
13 such restrictions by giving a prescribed notice to a
14 governmental agency, the insurance carrier, a mortgagee, an
15 individual, or a person designated to receive such notice for
16 such governmental agency, insurance carrier, or individual
17 shall apply when cancellation is effected under the provisions
18 of this section. The insurer, in accordance with such
19 prescribed notice when it is required to give such notice in
20 behalf of itself or the insured, shall give notice to such
21 governmental agency, person, mortgagee, or individual; and it
22 shall determine and calculate the effective date of
23 cancellation from the day it receives the copy of the notice
24 of cancellation from the premium finance company.

25 (e) Whenever an insurance contract is canceled in
26 accordance with this section, the insurer shall promptly
27 return the unpaid balance due under the finance contract, up
28 to the gross amount available, which includes unearned
29 commissions, upon the cancellation of the policy, to the
30 premium finance company, which shall, after satisfaction of
31 the premium finance contract, return and any remaining

2 unearned premium to the-agent-or the insured in the case of
3 personal lines insurance, or to the agent or insured, or both,
4 in the case of commercial insurance, for the benefit of the
5 insured or insureds.

6 (f) If an insurance contract is canceled by an insurer
7 upon the receipt of a copy of the cancellation notice from a
8 premium finance company, and if such premium finance company
9 has failed to provide the notice required by this subsection,
10 the insured shall have a cause of action against the premium
11 finance company for damages caused by such failure to provide
12 notice.

13 (2) Any court of this state rendering or affirming a
14 judgment or decree against a premium finance company and in
15 favor of any named or omnibus insured or beneficiary arising
16 out of a wrongful or improper cancellation of an insurance
17 policy by such premium finance company shall award reasonable
18 attorney's fees to the insured or beneficiary.

19 Section 4. This act shall take effect upon becoming a
20 law.

21 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
22 COMMITTEE SUBSTITUTE FOR
23 SB 1402

24 Provides that a premium finance company may self-insure the
25 errors and omissions coverage if it has an unencumbered net
26 worth of at least \$15 million and meets other requirements.

27 Expands prohibited premium financing in a premium finance
28 agreement to include other agreements, to finance the costs of
29 or otherwise provide for the collection or remittance of dues,
30 assessments, fees, or other periodic payments of money for an
31 automobile club membership, an accidental death and membership
policy sold in combination with a personal injury protection
and property damage only policy, and any product not regulated
under the provisions of the Insurance Code.

By Representative Dennis

A bill to be entitled

An act relating to premium finance companies; amending s. 627.828, F.S. ; revising certain net worth requirements for applicants for a premium finance company license; providing for a surety bond under certain circumstances; requiring certain insurance coverage; amending s. 627.848, F.S. ; requiring insurers to return certain amounts to premium finance companies on cancelled policies; requiring such companies to refund certain unearned premium; providing an effective date

Be It Enacted by the Legislature of the State of Florida.

Section 1. Section 627 828, Florida Statutes, is amended to read:

627.828 License required.--

(1) Except as provided in ss. 627.901 and 627 902, no person shall engage in the business of a premium finance company unless licensed by the department. Every premium finance company licensed under the provisions of this part shall maintain at all times a net worth of \$35,000. However, in lieu of having a net worth of \$35,000, a premium finance company which has a net worth of at least \$10,000 may file a surety bond or other acceptable collateral with the department as approved by it in the amount of \$35,000, which bond or collateral shall be maintained.

(2) The application for a license shall be in writing and in the form prescribed by the department. Every applicant shall provide evidence proof of a net worth of \$35,000.

511-132-97

1 attested to by two officers of the company, or a \$35,000
2 surety bond and evidence of a net worth of \$10,000, attested
3 to by two officers of the company. Assets to be used in
4 computing the required net worth shall be determined by rules
5 adopted by the department.

6 (3) Each premium finance company licensed under this
7 part shall maintain at all times an errors and omissions
8 insurance policy of no less than \$500,000 per claim.

9 (4)(3) A single license shall entitle the holder to
10 operate more than one office.

11 (5)(4) At the time of filing an application for a
12 license, the applicant shall pay to the department the license
13 fee and, upon original application or upon application
14 subsequent to denial of application, or revocation, suspension
15 or surrender of a license, an investigation fee.

16 (6)(5) Such license shall state the name and address
17 of the licensee, and a copy shall be kept conspicuously posted
18 in each office of the licensee and shall not be transferable
19 or assignable.

20 (7)(6) Prior to moving an existing office to another
21 location, a licensee shall notify the department in writing of
22 its intention to do so.

23 Section 2. Paragraph (e) of subsection (1) of section
24 627.848, Florida Statutes, 1996 Supplement, is amended to
25 read:

26 627.848 Cancellation of insurance contract upon
27 default.--

28 (1) When a premium finance agreement contains a power
29 of attorney or other authority enabling the premium finance
30 company to cancel any insurance contract listed in the
31

1 agreement, the insurance contract shall not be canceled unless
2 cancellation is in accordance with the following provisions:

3 (e) Whenever an insurance contract is canceled in
4 accordance with this section, the insurer shall promptly
5 return the-unpaid-balance-due-under-the-finance-contract;-up
6 to the gross amount available, which shall include unearned
7 premiums, upon the cancellation of the policy; to the premium
8 finance company, which shall, after satisfaction of the
9 premium finance contract, return and any remaining unearned
10 premium to the-agent-or the insured in the case of personal
11 lines insurance; or to the agent in the case of commercial
12 insurance both;-for-the-benefit-of-the-insured-or-insureds.

13 Section 3. This act shall take effect upon becoming a
14 law.

15 *****

16 HOUSE SUMMARY

17
18 Revises net worth requirements for licensing premium
19 finance companies. Revises refund requirements on
20 cancelled policies. See bill for details.
21
22

23
24 This publication was produced at an average cost of 1.12 cents
25 per single page in compliance with the Rules and for the
information of members of the Legislature and the public.
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28
29
30
31

STORAGE NAME. h0487.fs
DATE: March 21, 1997

HOUSE OF REPRESENTATIVES
COMMITTEE ON

BILL ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #. HB 487
RELATING TO Premium Finance Companies
SPONSOR(S): Representative Dennis
STATUTE(S) AFFECTED. Sections 627 828, 627 848, F.S.
COMPANION BILL(S) None
ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE
(1) Financial Services
(2)
(3)
(4)
(5)

I SUMMARY

HB 487 will require premium finance companies now authorized to file a surety bond or other collateral in lieu of having a net worth of \$35,000, to have a net worth of at least \$10,000

When applying for licensure, a premium finance company will be required to provide evidence, rather than proof, that the company satisfies the net worth requirements. The evidence will be attested to by two officers of the premium finance company.

All premium finance companies will have to have an errors and omissions insurance coverage of no less than \$500,000 per claim.

When an insurance contract is canceled, the premium finance company will be required to return any unearned premium and unearned commission to the insured if the policy was for personal lines insurance, and to the agent if the policy was for commercial lines insurance, instead of returning the unearned premium and unearned commission to either the insured or the agent, regardless of whether or not the insurance was personal or commercial.

This bill does not have a fiscal impact.

II SUBSTANTIVE ANALYSIS

A PRESENT SITUATION.

Section 627.828, F.S. refers to the licensing of premium finance companies. A premium finance company advances money to an insured in the form of payment of premiums on an insurance contract. 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. There are an estimated 260 premium finance companies in Florida.

Section 627.828(1) requires premium finance companies to maintain a net worth of \$35,000. In lieu of this, a premium finance company can file a surety bond or other collateral acceptable to the DOI in the amount of \$35,000. The cost of such a surety bond is generally two percent of the bond's amount. Thus, a \$35,000 bond costs \$700. Since the beginning of 1997, two premium finance companies have filed for bankruptcy.

Section 627.828(2) requires an entity applying for a premium finance company license to provide proof of a net worth of \$35,000. In practice, proof of net worth consists of an audit, which costs the premium finance company from \$5,000 to \$8,000, depending on the auditor.

The statute does not address maintenance of an errors and omissions insurance policy by premium finance companies. Errors and omissions policies insure premium finance companies against bankruptcy. For example, an error and omissions policy would cover a premium finance company if the premium finance company erroneously canceled an insured's insurance policy, an event subsequently occurred for which the insured was uninsured, and the insured sued the premium finance company. Many premium finance companies already have errors and omissions insurance.

A premium finance agreement works as follows:

- a premium finance company advances money to an insured in the form of payment of premiums on an insurance contract
- the insured makes monthly installment payments to the premium finance company that include the amount advanced, interest on the amount advanced, and a service charge that is authorized and limited by law.

Section 627.848(1)(e), F.S. provides procedure when an insurance policy is canceled:

- the insurer returns the amount of the unpaid balance due under the finance contract to the premium finance company, and,
- after satisfying the premium finance agreement, the premium finance company shall return any remaining unearned premium either to the agent or to the insured, for the benefit of the insured. There is no distinction between personal lines and commercial insurance.

If the remaining unearned premium is sent to the agent, the agent is required to return to the insured the amount of the remaining unearned premium, in addition to the amount of the agent's unearned commission. According to the Department of Insurance (DOI), some agents keep the unearned commission. There is a higher incidence of agents keeping unearned commissions on personal lines insurance policies (e.g., auto insurance) than on commercial lines policies (e.g., liability insurance carried by a mall).

B EFFECT OF PROPOSED CHANGES

The net worth requirements for premium finance companies filing a surety bond or other collateral in lieu of having \$35,000 in net worth will increase. A licensed premium finance company will have to maintain a minimum of \$10,000 net worth and file a surety bond or other acceptable collateral approved by the DOI in the amount of \$35,000, instead of only filing a \$35,000 surety bond with the DOI in lieu of having any net worth.

The surety bond or other acceptable collateral will have to be kept current, meaning a premium finance company cannot file the bond or collateral with the DOI to obtain or maintain the company's license, and then cancel the bond or collateral once the license is renewed

By allowing a premium finance company applying for a license to provide *evidence* of net worth, instead of *proof* of net worth, the company's costs should decrease. Instead of paying an estimated \$5,000 to \$8,000 for an annual audit, the premium finance companies will be able to use the results of financial exams, currently performed every three years on premium finance companies by the DOI, as evidence of net worth. There is no cost to the premium finance company for the exam. A financial exam consists of the DOI examining a premium finance company's records to ensure solvency. Two officers of the premium finance company will be required to attest to the evidence.

All licensed premium finance companies will be required to carry an errors and omissions insurance policy of \$500,000 per claim.

When an insurance contract is canceled, the required procedure will be as follows:

- the insurer will be required to return the gross amount available, including unearned premiums, to the premium finance company
- after satisfying the premium finance agreement, the premium finance company will have to return any remaining unearned premium to the insured, instead of returning it to the insured or the agent, in the case of personal lines insurance. In the case of commercial insurance, the premium finance company will return remaining unearned premiums to the agent.

C APPLICATION OF PRINCIPLES

1 Less Government

- a Does the bill create, increase or reduce, either directly or indirectly

(1) any authority to make rules or adjudicate disputes?

No

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No

(3) any entitlement to a government service or benefit?

No

b If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2 Lower Taxes

a Does the bill increase anyone's taxes?

No

b Does the bill require or authorize an increase in any fees?

No

c Does the bill reduce total taxes, both rates and revenues?

No

d Does the bill reduce total fees, both rates and revenues?

No

- e Does the bill authorize any fee or tax increase by any local government?

No

3 Personal Responsibility

- a Does the bill reduce or eliminate an entitlement to government services or subsidy?

No

- b Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No There is no cost to the premium finance companies for the financial exam by the DOI There are no implementation costs, as the financial exams are already performed by the DOI

4 Individual Freedom

- a Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Changing the law from requiring proof of net worth to requiring evidence of net worth will allow the premium finance company to choose whether to hire an accountant to audit the company, or whether to avail itself of the financial exam conducted by the DOI

- b Does the bill prohibit or create new government interference with, any presently lawful activity?

The DOI will probably conduct most or all financial exams that will be used as evidence of net worth, replacing audits conducted by private accountants or accounting firms

5 Family Empowerment

- a. If the bill purports to provide services to families or children

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b Does the bill directly affect the legal rights and obligations between family members?

No

c If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. SECTION-BY-SECTION ANALYSIS

This section need be completed only in the discretion of the Committee.

III FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS

1 Non-recurring Effects

None

2 Recurring Effects

None

3 Long Run Effects Other Than Normal Growth

None

4 Total Revenues and Expenditures

None

B FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE.

1 Non-recurring Effects

None

2 Recurring Effects

None

3 Long Run Effects Other Than Normal Growth

None

C DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR

1 Direct Private Sector Costs

The bill would decrease the number of accountants called upon to audit the premium finance companies

The bill will prevent a premium finance company with a net worth less than \$10,000 from being licensed by the DOI

2 Direct Private Sector Benefits

Premium finance companies will no longer have to pay to be audited for the purpose of proving net worth, since they will be able to rely instead on the financial exam conducted by the DOI as evidence of net worth

3 Effects on Competition, Private Enterprise and Employment Markets

The bill may decrease the number of premium finance companies able to conduct business in Florida by imposing a \$10,000 net worth minimum

D FISCAL COMMENTS

IV CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION

A APPLICABILITY OF THE MANDATES PROVISION

None

B REDUCTION OF REVENUE RAISING AUTHORITY

None

C REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

None

V COMMENTS

According to the sponsor, the intent of these sections is to increase the degree of solvency of licensed premium finance companies, and to make it financially easier for premium finance companies to demonstrate such solvency

VI AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES

VII SIGNATURES

COMMITTEE ON FINANCIAL SERVICES
Prepared by

Legislative Research Director.

Hilary E. Coggins

Stephen T. Hogge

By the Committee on Financial Services and Representative
Dennis

A bill to be entitled

An act relating to premium finance companies;
amending s. 627.828, F.S.; revising certain net
worth requirements for applicants for a premium
finance company license; providing for a surety
bond under certain circumstances; requiring
certain insurance coverage; providing criteria;
providing penalties; authorizing the Department
of Insurance to adopt rules; amending s.
627.8405, F.S.; specifying prohibited acts by a
premium finance company; providing an effective
date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 627.828, Florida Statutes, is
amended to read:

627.828 License required.--

(1) Except as provided in ss. 627.901 and 627.902, no
person shall engage in the business of a premium finance
company unless licensed by the department. Every premium
finance company licensed under the provisions of this part
shall maintain at all times a net worth of \$35,000. However,
in lieu of having a net worth of \$35,000, a premium finance
company which has a net worth of at least \$10,000 may file a
surety bond or other acceptable collateral with the department
as approved by it in the amount of \$35,000, which bond or
collateral shall be maintained.

(2) The application for a license shall be in writing
and in the form prescribed by the department. Every applicant
shall provide evidence proof of a net worth of \$35,000.

1 attested to by two officers of the company, or a \$35,000
2 surety bond and evidence of a net worth of \$10,000, attested
3 to by two officers of the company. Assets to be used in
4 computing the required net worth shall be determined by rules
5 adopted by the department.

6 (3)(a) Each premium finance company authorized under
7 the provisions of this part shall maintain at all times an
8 errors and omissions insurance policy of no less than \$500,000
9 covering the acts of its officers, employees, and agents. The
10 policy may contain reasonable deductibles not to exceed 2
11 percent of the policy limits.

12 (b)1. A premium finance company with an unencumbered
13 net worth of at least \$15,000,000 may self-insure the errors
14 and omissions coverage provided it meets the requirements of
15 this paragraph.

16 2. To qualify as a self-insurer the premium finance
17 company must:

18 a. Have and maintain an unencumbered net worth of
19 \$15,000,000 which shall be determined based on assets
20 permissible for insurers pursuant to ss. 625.012 and 625.031.

21 b. Annually demonstrate, as part of its annual report,
22 to the satisfaction of the department, that the net-worth
23 requirement is being met.

24 c. Obtain, as a part of its annual application for
25 licensure as a premium finance company, a certificate of
26 self-insurance from the department to be renewed annually.

27 3. If the department determines the premium finance
28 company:

29 a. Is not maintaining at all times an unencumbered net
30 worth of at least \$15,000,000; or
31

614-106-97

1 b. In not, in good faith, covering the errors and
2 omissions of its officers, employees and agents,

3
4 the department shall, in addition to other penalties under
5 this code, revoke or suspend the certificate of self-insurance
6 and the premium finance company shall be subject to the
7 requirements of paragraph (a).

8 (c) The department may adopt rules necessary to
9 implement the provisions of this subsection including the
10 adoption of necessary forms.

11 (4)(3) A single license shall entitle the holder to
12 operate more than one office.

13 (5)(4) At the time of filing an application for a
14 license, the applicant shall pay to the department the license
15 fee and, upon original application or upon application
16 subsequent to denial of application, or revocation, suspension
17 or surrender of a license, an investigation fee.

18 (6)(5) Such license shall state the name and address
19 of the licensee, and a copy shall be kept conspicuously posted
20 in each office of the licensee and shall not be transferable
21 or assignable.

22 (7)(6) Prior to moving an existing office to another
23 location, a licensee shall notify the department in writing of
24 its intention to do so.

25 Section 2. Section 627.8405, Florida Statutes, is
26 amended to read:

27 627.8405 Prohibited ~~acts~~ premium-financing.--No
28 premium finance company shall, in a premium finance agreement
29 or other agreement, provide financing for, or otherwise
30 provide for the collection or remittance of dues, assessments,
31 fees, or other periodic payments of money for, the cost of:

614-106-97

1 (1) A membership in an automobile club. The term
2 "automobile club" means a legal entity which, in consideration
3 of dues, assessments, or periodic payments of money, premises
4 its members or subscribers to assist them in matters relating
5 to the ownership, operation, use, or maintenance of a motor
6 vehicle; however, this definition of "automobile club" does
7 not include persons, associations, or corporations which are
8 organized and operated solely for the purpose of conducting,
9 sponsoring, or sanctioning motor vehicle races, exhibitions,
10 or contests upon racetracks, or upon racecourses established
11 and marked as such for the duration of such particular events.
12 The words "motor vehicle" used herein have the same meaning as
13 defined in chapter 320.

14 (2) An accidental death and dismemberment policy sold
15 in combination with a personal injury protection and property
16 damage only policy.

17 (3) Any product not regulated under the provisions of
18 this insurance code.

19
20 This section also applies to premium financing by any
21 insurance agent or insurance company under part XVI. The
22 department shall promulgate rules to assure disclosure, at the
23 time of sale, of coverages financed with personal injury
24 protection.

25 Section 3. This act shall take effect upon becoming a
26 law.

STORAGE NAME. h0487s1 fs
DATE. April 4, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
FINANCIAL SERVICES
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL # CS/HB 487
RELATING TO Premium Finance Companies
SPONSOR(S) Committee on Financial Services and Representative Dennis
STATUTE(S) AFFECTED Sections 627 828, 627 848, F S
COMPANION BILL(S) None
ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE
(1) FINANCIAL SERVICES YEAS 12 NAYS 0
(2)
(3)
(4)
(5)

I SUMMARY

CS/HB 487 will require premium finance companies now authorized to file a surety bond or other collateral in lieu of having a net worth of \$35,000, to have a net worth of at least \$10,000

When applying for licensure, a premium finance company will be required to provide evidence, rather than proof, that the company satisfies the net worth requirements. The evidence will be attested to by two officers of the premium finance company.

All premium finance companies will have to have errors and omissions insurance coverage of no less than \$500,000 covering the acts of its officers, employees, and agents. The deductible of the coverage may not exceed two percent of the policy limits. A premium finance company may self-insure the errors and omissions coverage if the premium finance company meets certain criteria, such as having an unencumbered \$15 million net worth. The bill provides for revocation or suspension of a self-insurance certificate if the premium finance company does not comply with the self-insurance requirements.

The bill provides that a premium finance company cannot finance or collect payments for membership in an automobile club relating to maintenance or operation of automobiles, for accidental death and dismemberment insurance, or for any product not regulated under the insurance code.

This bill does not have a fiscal impact.

II SUBSTANTIVE RESEARCHS

A PRESENT SITUATION

Section 627.828, F.S. refers to the licensing of premium finance companies. A premium finance company advances money to an insured in the form of payment of premiums on an insurance contract. 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. There are an estimated 260 premium finance companies in Florida.

Section 627.828(1) requires premium finance companies to maintain a net worth of \$35,000. In lieu of this, a premium finance company can file a surety bond or other collateral acceptable to the department of insurance (DOI) in the amount of \$35,000. The cost of such a surety bond is generally two percent of the bond's amount. Thus, a \$35,000 bond costs \$700. Since the beginning of 1997, two premium finance companies have filed for bankruptcy.

Section 627.828(2) requires an entity applying for a premium finance company license to provide proof of a net worth of \$35,000. In practice, proof of net worth consists of an audit, which costs the premium finance company from \$5,000 to \$8,000, depending on the auditor.

The insurance code does not address maintenance of an errors and omissions insurance policy by premium finance companies. Errors and omissions policies insure premium finance companies against bankruptcy. For example, an error and omissions policy would cover a premium finance company if the premium finance company erroneously canceled an insured's insurance policy, an event subsequently occurred for which the insured was uninsured, and the insured sued the premium finance company. Many premium finance companies already have errors and omissions insurance.

A premium finance agreement works as follows:

- a premium finance company advances money to an insured in the form of payment of premiums on an insurance contract
- the insured makes monthly installment payments to the premium finance company that include the amount advanced, interest on the amount advanced, and a service charge that is authorized and limited by law.

No premium finance company may finance the cost of membership in an automobile club relating to the operation or maintenance of an automobile, the cost of an accidental death and dismemberment policy, or any product not regulated under the provisions of the insurance code. The third district court of appeal held that the term "financing" does not include collection of funds, thus overturning a Department of Insurance Final Order concluding that Capital National Finance Corporation had engaged in the financing of automobile club memberships by collecting funds used to pay for the membership. Capital National Finance Corp. v. Dept. of Insurance (Fla. 3d DCA 1997)

B. EFFECT OF PROPOSED CHANGES.

The net worth requirements for premium finance companies filing a surety bond or other collateral in lieu of having \$35,000 in net worth will increase. A licensed premium finance company will have to maintain a minimum of \$10,000 net worth and file a surety bond or other acceptable collateral approved by the DOI in the amount of \$35,000, instead of only filing a \$35,000 surety bond with the DOI in lieu of having any net worth.

The surety bond or other acceptable collateral will have to be kept current, meaning a premium finance company cannot file the bond or collateral with the DOI to obtain or maintain the company's license, and then cancel the bond or collateral once the license is renewed.

By allowing a premium finance company applying for a license to provide *evidence* of net worth, instead of *proof* of net worth, the company's costs should decrease. Instead of paying an estimated \$5,000 to \$8,000 for an annual audit, the premium finance companies will be able to use the results of financial exams, currently performed every three years on premium finance companies by the DOI, as evidence of net worth. There is no cost to the premium finance company for the exam. A financial exam consists of the DOI examining a premium finance company's records to ensure solvency. Two officers of the premium finance company will be required to attest to the evidence.

All licensed premium finance companies will be required to carry an errors and omissions insurance policy of at least \$500,000 covering the acts of its officers, employees, and agents. The deductibles of such a policy may not exceed two percent of the policy limits.

A premium finance company with an unencumbered net worth of \$15 million may self-insure the errors and omissions coverage, as long as the premium finance company maintains a \$15 million net worth, demonstrated annually, and as long as the premium finance company obtains a certificate of self-insurance from the DOI. The DOI will revoke the certification if a premium finance company does not at all times maintain an unencumbered net worth of \$15 million, or the premium finance company does not, in good faith, cover the errors and omissions of its officers, employees, and agents. The DOI may adopt rules regarding premium finance companies self-insuring their errors and omissions coverage.

The bill prohibits a premium finance company from providing for the collection or remittance of dues, fees, or other periodic payments of money for the cost of automobile clubs relating to maintenance and operation of automobiles, accidental death and dismemberment coverage, or any product not authorized by the insurance code.

C. APPLICATION OF PRINCIPLES

1 Less Government

a Does the bill create, increase or reduce, either directly or indirectly

(1) any authority to make rules or adjudicate disputes?

Yes The DOI may adopt rules to implement the premium finance company self-insurance requirements, and may revoke or suspend a premium finance company's self-insurance certification if the requirements are not maintained

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No

(3) any entitlement to a government service or benefit?

No

b If an agency or program is eliminated or reduced

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2 Lower Taxes

a Does the bill increase anyone's taxes?

No

b Does the bill require or authorize an increase in any fees?

No

c Does the bill reduce total taxes, both rates and revenues?

No

d Does the bill reduce total fees, both rates and revenues?

No

e Does the bill authorize any fee or tax increase by any local government?

No

3 Personal Responsibility

a Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No There is no cost to the premium finance companies for the financial exam by the DOI There are no implementation costs, as the financial exams are already performed by the DOI

4 Individual Freedom

a Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Changing the law from requiring proof of net worth to requiring evidence of net worth will allow the premium finance company to choose whether to hire an accountant to audit the company, or whether to avail itself of the financial exam conducted by the DOI

The bill allows premium finance companies that meet certain net worth requirements and certification requirements to self-insure their errors and omissions coverage

- b Does the bill prohibit, or create new government interference with, any presently lawful activity?

Yes The DOI will probably conduct most or all financial exams that will be used as evidence of net worth, replacing audits conducted by private accountants or accounting firms

The bill prohibits premium finance companies from collecting dues, assessments, fees or other payments for the cost of membership in an automobile club, accidental death and dismemberment coverage, or any other product not regulated by the insurance code

5. Family Empowerment

- a If the bill purports to provide services to families or children

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

- b Does the bill directly affect the legal rights and obligations between family members?

No

- c If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D SECTION-BY-SECTION RESEARCH

This section need be completed only in the discretion of the Committee

II FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT.

A FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS

1 Non-recurring Effects

None

2 Recurring Effects

None

3 Long Run Effects Other Than Normal Growth

None

4 Total Revenues and Expenditures

None

B FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE

1. Non-recurring Effects

None

2 Recurring Effects

None

3 Long Run Effects Other Than Normal Growth

None

C DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR

1 Direct Private Sector Costs

The bill would decrease the number of accountants called upon to audit the premium finance companies

The bill will prevent a premium finance company with a net worth less than \$10,000 from being licensed by the DOI

The bill will prohibit premium finance companies from collecting dues, assessments, and fees for the cost of automobile clubs, accidental death and dismemberment policies, or any product not regulated by the insurance code.

2 Direct Private Sector Benefits

Premium finance companies will no longer have to pay to be audited for the purpose of proving net worth, since they will be able to rely instead on the financial exam conducted by the DOI as evidence of net worth

All premium finance companies will have errors and omissions coverage

Premium finance companies that meet certain net worth and certification requirements will be able to self-insure their errors and omissions coverage

3 Effects on Competition, Private Enterprise and Employment Markets

The bill may decrease the number of premium finance companies able to conduct business in Florida by imposing a \$10,000 net worth minimum

D FISCAL COMMENTS

III CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A APPLICABILITY OF THE MANDATES PROVISION

None.

B REDUCTION OF REVENUE RAISING AUTHORITY

None

C REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

None

IV COMMENTS

According to the sponsor, the intent of these sections is to increase the degree of solvency of licensed premium finance companies, and to make it financially easier for premium finance companies to demonstrate such solvency

VI AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES

CS/HB 487 is different from HB 487 in the following ways

- CS/HB 487 requires that the errors and omissions insurance policy provide \$500,000 of coverage for the acts of a premium finance company's officers, employees, and agents, instead of providing \$500,000 per claim
- CS/HB 487 provides for self-insurance for premium finance companies meeting certain requirements, whereas HB 487 did not provide for self-insurance
- CS/HB 487 prohibits premium finance companies from collecting dues, assessments, and fees for the cost of automobile clubs, accidental death and dismemberment policies, or any product not regulated by the insurance code, while HB 487 did not address such collections.
- HB 487 provided for the method of returning unearned premiums to insureds and agents upon cancellation of an insurance contract, while CS/HB 487 does not address cancellation of insurance contracts

VII SIGNATURES

COMMITTEE ON FINANCIAL SERVICES

Prepared by

Legislative Research Director

Hilary E Coggins

Stephen T Hogge



Journal of the Senate

Number 18—Regular Session

Friday, April 25, 1997

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{See end of Journal for Bill Action Summary}

CALL TO ORDER

The Senate was called to order by the President at 1 30 p m A quorum present—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzier	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalciewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Excused Senator Sullivan periodically for the purpose of working on Appropriations

PRAYER

The following prayer was offered by Faye Blanton, Secretary of the Senate

Dear God, please bless these Senators and the decisions they make today

In your holy name, Amen

PLEDGE

Senate Pages, David Ivarson and Dan Smith of Tallahassee, led the Senate in the pledge of allegiance to the flag of the United States of America

David Ivarson was named male athlete of the year by the National Association of Christian Athletes. As a basketball player, he scored over 2,000 career points and 1,000 career rebounds He is the son of Senate employee Lori Ivarson Dan Smith was nominated to an All American Basketball Team He scored over 20 points per game

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Bankhead, by two-thirds vote SB 1994 was withdrawn from the Committee on Rules and Calendar, and CS for SB 860 was withdrawn from the Committee on Judiciary

On motion by Senator Dudley by two-thirds vote SB 12 CS for SB 38, CS for SB 318, SB 408, CS for CS for SB 548, SB 654, SB 730, CS for SB 768 CS for SB 806, CS for SB 860, SB 1044, CS for SB 1056, CS for SB 1232 CS for SB 1410, CS for SB 1432, CS for SB 1568, CS for SB 1686 CS for SB 1804, CS for SB 1866 CS for SB 1880, CS for SB 2050, SB 2054, SB 2062 SB 2150, CS for SB 2186, CS for SB 2224, SB 2330 SB 2386 and SB 1662 were withdrawn from the Committee on Ways and Means

On motion by Senator Bankhead, by two-thirds vote SB 862, SB 1008, CS for SB 2154 SB 2270, SB 2288 and SJR 844 were withdrawn from the Committee on Rules and Calendar

MOTIONS RELATING TO COMMITTEE MEETINGS

On motion by Senator Bankhead the rules were waived and the Special Order Calendar Subcommittee of the Committee on Rules and Calendar was granted permission to meet April 28 from 12 15 p m or upon adjournment of session until completion to establish the Special Order Calendar for Tuesday, April 29

MOTIONS

On motion by Senator Bankhead, a deadline of 8 30 a m Monday, April 28, was set for filing amendments to Bills on Third Reading to be considered that day

CONSIDERATION OF BILLS ON THIRD READING

On motion by Senator Sullivan, by unanimous consent—

CS for CS for SB 858—A bill to be entitled An act relating to education, establishing the Florida Bright Futures Scholarship Program, providing levels of award, providing for administration and funding, providing student eligibility and program requirements, providing for awards, providing requirements for qualification for a Florida Academic Scholars award, a Florida Merit Scholarship award, and a Florida Gold Seal Vocational Endorsement Scholarship award, providing a transition in eligibility for scholarship awards, amending s 24 121, F S , providing for funding of the Florida Bright Futures Scholarship Program from the Educational Enhancement Trust Fund, repealing ss 232 2465, 239 217, 240 402, 240 4021, and 240 4024, F S , relating to the Florida Academic Scholars' Certificate Program, the Florida Gold Seal Vocational Endorsement Program, the Florida Undergraduate Scholars' Program, the Vocational Gold Seal Endorsement Scholarship Program, and the Florida Postsecondary Tuition Program, amending ss 240 233, 232 246, 240 404, and 240 40242, F S , conforming cross-references and provisions, providing an effective date

—was taken up out of order and read the third time by title

On motions by Senator Sullivan, CS for CS for SB 858 was passed and by two-thirds vote immediately certified to the House The vote on passage was

Yeas—38

Madam President	Casas	Diaz-Balart	Hargrett
Bankhead	Childers	Dudley	Harris
Bronson	Clary	Dyer	Holzendorf
Brown-Waite	Cowin	Forman	Horne
Burt	Crist	Grant	Jenne
Campbell	Dantzier	Gutman	Jones

CS for HB 549—A bill to be entitled An act relating to warranty companies, amending s 634 011, F.S., redefining the term "motor vehicle" with respect to motor vehicle service agreement companies, amending s 634 121 F.S., authorizing such service agreement companies to limit both the time period within which a consumer may transfer the agreement and the number of transfers permissible, amending s 634 301, F.S., providing a definition, amending s 634 312, F.S., providing for a required element of home warranty contracts, creating s 634 331, F.S., providing that a home warranty may provide coverage of residential property listed for sale prior to the sale of such property under certain circumstances, amending s 634.406, F.S., revising language with respect to financial requirements, providing an effective date

—was read the third time by title

On motions by Senator Childers, CS for HB 549 was passed and by two-thirds vote immediately certified to the House The vote on passage was

Yeas—36

Madam President	Dantzler	Holzendorf	Meadows
Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jenne	Ostalkiewicz
Brown-Waite	Dyer	Jones	Rossin
Campbell	Forman	Klein	Scott
Childers	Grant	Kurth	Silver
Clary	Gutman	Latvala	Thomas
Cowan	Hargrett	Lee	Turner
Crist	Harris	McKay	Williams

Nays—None

Vote after roll call

Yea—Burt, Kirkpatrick, Sullivan

INTRODUCTION OF FORMER REPRESENTATIVE

Senator Dudley introduced Congressman Jim Davis, a former member of the Florida House of Representatives, who was present in the chamber

On motion by Senator Hargrett, by two-thirds vote CS for HB 487 was withdrawn from the Committee on Banking and Insurance

On motions by Senator Hargrett, by two-thirds vote—

CS for HB 487—A bill to be entitled An act relating to premium finance companies, amending s 627 828, F.S., revising certain net worth requirements for applicants for a premium finance company license, providing for a surety bond under certain circumstances, requiring certain insurance coverage, providing criteria, providing penalties, authorizing the Department of Insurance to adopt rules, amending s 627 8405, F.S., specifying prohibited acts by a premium finance company, providing an effective date

—a companion measure, was substituted for CS for SB 1402 as amended and by two-thirds vote read the second time by title

Senator Hargrett moved the following amendment which was adopted

Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert

Section 1 Section 627 828, Florida Statutes, is amended to read 627 328 License required --

(1) Except as provided in ss 627 901 and 627 902, no person shall engage in the business of a premium finance company unless licensed by the department Every premium finance company licensed under the provisions of this part shall maintain at all times a net worth of \$35,000 However, in lieu of having a net worth of \$35,000, a premium finance company that has a net worth of \$10,000 may file a surety bond or other

acceptable collateral with the department as approved by it in the amount of \$35 000, which bond or collateral must be maintained

(2) The application for a license shall be in writing and in the form prescribed by the department Every applicant shall provide evidence proof of a net worth of \$35,000 attested by two officers of the company, or a \$35 000 surety bond and evidence of a net worth of \$10,000 attested by two officers of the company Assets to be used in computing the required net worth shall be determined by rules adopted by the department

(3)(a) Each premium finance company authorized under the provisions of this part shall maintain at all times an errors and omissions insurance policy of no less than \$500,000 covering the acts of its officers, employees, and agents The policy may contain reasonable deductibles not to exceed 2 percent of the policy limits

(b)1 A premium finance company with an unencumbered net worth of at least \$15 million may self-insure the errors and omissions coverage if it meets the requirements of this paragraph

2 To qualify as a self-insurer the premium finance company must

a Have and maintain an unencumbered net worth of \$15 million, which shall be determined based on assets permissible for insurers pursuant to ss 625 012 and 625 031,

b Annually demonstrate as part of its annual report, to the satisfaction of the department, that the net-worth requirement is being met, and

c Obtain, as a part of its annual application for licensure as a premium finance company, a certificate of self-insurance from the department to be renewed annually

3 If the department finds that the premium finance company

a Is not maintaining at all times an unencumbered net worth of at least \$15 million, or

b Is not, in good faith, covering the errors and omissions of its officers, employees and agents,

the department shall, in addition to other penalties under this code, revoke or suspend the certificate of self-insurance, and the premium finance company shall be subject to the requirements of paragraph (a)

(c) The department may adopt rules necessary to administer this subsection, including rules prescribing the necessary forms

(4)(3) A single license shall entitle the holder to operate more than one office

(5)(4) At the time of filing an application for a license, the applicant shall pay to the department the license fee and, upon original application or upon application subsequent to denial of application, or revocation, suspension or surrender of a license, an investigation fee

(6)(6) Such license shall state the name and address of the licensee, and a copy shall be kept conspicuously posted in each office of the licensee and shall not be transferable or assignable

(7)(6) Prior to moving an existing office to another location, a licensee shall notify the department in writing of its intention to do so

Section 2 Section 627 8405, Florida Statutes, is amended to read

627 8405 Prohibited acts premium financing —No premium finance company shall, in a premium finance agreement or other agreement, finance the cost of or otherwise provide for the collection or remittance of dues, assessments, fees, or other periodic payments of money provide financing for the cost of

(1) A membership in an automobile club The term "automobile club" means a legal entity which in consideration of dues, assessments, or periodic payments of money, promises its members or subscribers to assist them in matters relating to the ownership, operation, use, or maintenance of a motor vehicle, however, this definition of "automobile club" does not include persons, associations, or corporations which are organized and operated solely for the purpose of conducting, sponsoring,

or sanctioning motor vehicle races exhibitions, or contests upon race-tracks, or upon racecourses established and marked as such for the duration of such particular events The words "motor vehicle" used herein have the same meaning as defined in chapter 320

(2) An accidental death and dismemberment policy sold in combination with a personal injury protection and property damage only policy

(3) Any product not regulated under the provisions of this insurance code

This section also applies to premium financing by any insurance agent or insurance company under part XVI The department shall promulgate rules to assure disclosure, at the time of sale, of coverages financed with personal injury protection

Section 3 Section 627 848, Florida Statutes, 1996 Supplement, is amended to read

627 848 Cancellation of insurance contract upon default —

(1) When a premium finance agreement contains a power of attorney or other authority enabling the premium finance company to cancel any insurance contract listed in the agreement, the insurance contract shall not be canceled unless cancellation is in accordance with the following provisions

(a)1 Not less than 10 days' written notice shall be mailed to each insured shown on the premium finance agreement of the intent of the premium finance company to cancel his insurance contract unless the defaulted installment payment is received within 10 days

2 After expiration of such period, the premium finance company shall mail to the insurer a request for cancellation, specifying the effective date of cancellation and the unpaid premium balance due under the finance contract, and shall mail a copy thereof to the insured at his last known address as shown on the premium finance agreement

(b) Every notice of cancellation shall include, in type or print of which its face shall not be smaller than 12 points, a statement that, if the insurance contract or contracts provide motor vehicle liability insurance responsibility is required to be maintained continuously for a period of 3 years, pursuant to chapter 324, and the operation of a vehicle without such financial responsibility is unlawful

(c) Upon receipt of a copy of the cancellation notice by the insurer or insurers, the insurance contract shall be canceled as of the date specified in the cancellation notice with the same force and effect as if the notice of cancellation had been submitted by the insured himself, whether or not the premium finance company has complied with the notice requirement of this subsection, without requiring any further notice to the insured or the return of the insurance contract

(d) All statutory, regulatory, and contractual restrictions providing that the insured may not cancel his insurance contract unless he or the insurer first satisfies such restrictions by giving a prescribed notice to a governmental agency, the insurance carrier, a mortgagee, an individual or a person designated to receive such notice for such governmental agency, insurance carrier, or individual shall apply when cancellation is effected under the provisions of this section The insurer, in accordance with such prescribed notice when it is required to give such notice in behalf of itself or the insured, shall give notice to such governmental agency, person, mortgagee, or individual, and it shall determine and calculate the effective date of cancellation from the day it receives the copy of the notice of cancellation from the premium finance company

(e) Whenever an insurance contract is canceled in accordance with this section, the insurer shall promptly return the unpaid balance due under the finance contract, up to the gross amount available upon the cancellation of the policy, to the premium finance company and any remaining unearned premium to the agent or the insured or both, for the benefit of the insured or insureds The insurer shall notify the insured and the agent of the amount of unearned premium returned to the premium finance company and the amount of unearned commission held by the agent The premium finance company within 15 days shall notify the insured and the agent the amount of unearned premium Within 15 days of receipt of notification from the premium finance company, the agent shall return such amount including any unearned commission to

the insured or with the written approval of the insured apply such amount to the purchase of other insurance products regulated by the department The department may adopt rules necessary to implement the provisions of this subsection

(f) If an insurance contract is canceled by an insurer upon the receipt of a copy of the cancellation notice from a premium finance company, and if such premium finance company has failed to provide the notice required by this subsection, the insured shall have a cause of action against the premium finance company for damages caused by such failure to provide notice

(2) Any court of this state rendering or affirming a judgment or decree against a premium finance company and in favor of any named or omnibus insured or beneficiary arising out of a wrongful or improper cancellation of an insurance policy by such premium finance company shall award reasonable attorney's fees to the insured or beneficiary

Section 4 This act shall take effect upon becoming a law

And the title is amended as follows

Delete everything before the enacting clause and insert A bill to be entitled An act relating to premium finance companies and agreements, amending s 627 828, F S , revising the net worth requirements for an applicant for a premium finance company license, authorizing a surety bond with a reduced net worth requirement, requiring that premium finance companies maintain Errors and Omissions Coverage and providing an exception, amending s 627 8405, F S , revising prohibited acts by a premium finance company, amending s 627 848, F S , requiring notification to the insured by the insurer and premium finance company on a canceled insurance contract, the amount of any unearned premium and unearned commission due to the insured after satisfaction of the contract, providing an effective date

On motions by Senator Hargrett, by two-thirds vote CS for HB 487 as amended was read the third time by title, passed and immediately certified to the House The vote on passage was

Yeas—37

Madam President	Dantzler	Horne	Ostalkiewicz
Bankhead	Diaz-Balart	Jenne	Rossin
Bronson	Dudley	Jones	Scott
Brown-Waite	Dyer	Klein	Silver
Burt	Forman	Kurth	Thomas
Campbell	Grant	Latvala	Turner
Childers	Gutman	Lee	Williams
Clary	Hargrett	McKay	
Cowin	Harris	Meadows	
Crist	Holzendorf	Myers	

Nays—None

Vote after roll call

Yea—Kirkpatrick, Sullivan

Consideration of CS for SB 908 was deferred

CS for SB 1754—A bill to be entitled An act relating to economic development, authorizing the Secretary of State to appoint Florida international notaries, providing definitions providing rulemaking authority, authorizing the use of authentication methods by international notaries providing for effect of acts of international notaries, amending s 114, chapter 96-320, Laws of Florida, revising the definition and requirements relating to "matching private funds" for Enterprise Florida, Inc , amending s 14 2015 F S , removing redundant provisions, revising provisions allowing the Office of Tourism, Trade, and Economic Development to contract for administrative purposes, revising the office's responsibilities for planning meetings of leaders in business, government, and economic development providing the office with rulemaking authority for specific programs amending s 15 182, F S requiring certain state-funded musical cultural, or artistic organizations to notify the Department of State of their international travel plans, directing the department, in conjunction with Enterprise Florida, Inc , to act as an

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date March 25, 1997 Revised _____

Subject Premium Finance Companies and Agreements

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1	<u>Johnson</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Favorable/CS</u>
2	_____	_____	_____	_____
3	_____	_____	_____	_____
4	_____	_____	_____	_____
5	_____	_____	_____	_____

I. Summary:

The bill provides that a premium finance company may self-insure the errors and omissions coverage if has unencumbered net worth of at least \$15 million and meets other requirements

The bill also expands prohibited premium financing in a premium finance agreement to include other agreements, to finance the costs of or otherwise provide for the collection or remittance of dues, assessments, fees, or other periodic payments of money for an automobile club membership, an accidental death and membership policy sold in combination with a personal injury protection and property damage only policy, and any product not regulated under the provisions of this insurance code

This bill substantially amends the following sections of the Florida Statutes 627 828, 627 8405, and 627 848

II. Present Situation:

Section 627 828, F S relates to the licensing of premium finance companies A premium finance company advances money to an insured in the form of payment of premiums on an insurance contract 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 260 premium finance companies in Florida

Generally, net worth requirements are used by regulators to serve as a means to address safety and soundness of a particular business and to protect and compensate the consumer, in the event the consumer incurs a loss due to the fraudulent acts of a business. As part of the requirements for becoming licensed as a premium finance company, an applicant must provide documentation substantiating a net worth of \$35,000 or evidence that a surety bond, or other acceptable collateral, in the amount of \$35,000 will be filed with the department at the time the application is approved. The cost of such a surety bond is generally 2 percent of the bond's amount. Thus, a \$35,000 bond costs approximately \$700.

The Department of Insurance has promulgated rules for determining what type of assets are to be used in computing the net worth requirements. Once licensed, a licensee must submit annual audited financial statements, unless the company has filed a surety bond or other acceptable collateral with the department.

The statute does not address maintenance of an errors and omissions insurance policy by premium finance companies. Errors and omissions policies insure premium finance companies against certain acts in relation to their business. For example, an errors and omissions policy would cover a premium finance company if the premium finance company erroneously canceled an insured's insurance policy, an event subsequently occurred for which the insured was uninsured, and insured sued the premium finance company. Many premium finance companies already maintain errors and omissions insurance.

A premium finance agreement works as follows:

- A premium finance company advances money to an insured in the form of payment of premiums on an insurance contract.
- The insured makes monthly installment payments to the premium finance company that include the amount advanced, interest on the amount advanced, and a service charge that is authorized and limited by law.

Section 627.8405, F.S., specifies acts premium finance companies are prohibited from engaging in. A premium finance company is prohibited from providing financing for the cost of an automobile club membership, an accidental death and dismemberment policy sold in connection with a personal injury protection and property damage only policy, or any product not regulated under the provisions of this insurance code.

Section 627.848(1)(e), F.S., provides procedure when an insurance policy is canceled.

- The insurer returns the amount of the unpaid balance due under the finance contract to the premium finance company, and,

- After satisfying the premium finance agreement, the insurer must return any remaining unearned premium either to the agent or to the insured, for the benefit of the insured
There is no distinction between personal lines and commercial insurance

If the remaining unearned premium is sent to the agent, the agent is required to return to the insured the amount of the remaining unearned premium, in addition to the amount of the agent's unearned commission. The department has received numerous complaints about consumers never receiving the refunds of unpaid balances, as a result of some agents keeping the unearned commission. There is a higher incidence of agents keeping unearned commissions on personal lines insurance policies (e.g., auto insurance) than on commercial lines policies (e.g., liability insurance carried by a mall).

III. Effect of Proposed Changes:

Section 1. Amends s. 627.828, F.S., relating to requirements for licensure to revise the net worth requirements. A licensed premium finance company would be required to maintain a \$10,000 minimum net worth and file a surety bond or other acceptable collateral approved by the department in the amount \$35,000. Currently, there is no net worth requirement if the premium finance company obtains a \$35,000 surety bond. It is unclear if the \$10,000 net worth requirement for currently licensed premium finance companies will be substantiated by audited financial statements or by an attestation by company officers, or other means.

The bond or collateral must be maintained, so, the company cannot file the bond or collateral with the department to obtain or renew the license, and then cancel the bond or collateral once the license is renewed.

Every applicant for licensure must provide evidence of a net worth of \$35,000, as attested by two officers of the company, or a \$35,000 surety bond and evidence of a net worth of \$10,000, attested by two officers of the company. This change will no longer require a company to submit audited, annual financial statements.

Generally, each premium finance company would also be required to maintain at all times an errors and omissions insurance policy in the amount of no less than \$500,000. However, if a company has a net worth of at least \$15,000,000, it may self-insure the errors and omissions coverage, provided it meets the following requirements: (1) maintain an unencumbered net worth of \$15 million, determined based on assets permissible for insurers, pursuant to s. 625.012, and 625.031, F.S., (2) demonstrate, through the annual report, to the satisfaction of the department that the net worth requirement is being met, and (3) obtain, as a part of the application for annual licensure, a certificate of self-insurance from the department to be renewed annually.

In the event the department determines that the premium finance company is not maintaining the net worth requirement or is not covering the errors and omissions, the department is authorized to revoke or suspend the certificate of self-insurance of the premium finance company.

Section 2. Amends s 627 8405, F S , to prohibit a premium finance company, in a premium finance agreement, or other agreement, from financing the cost of or otherwise providing for the collection or remittance of dues, assessments, fees, or other periodic payments of money for the cost of an automobile club membership, an accidental death and dismemberment policy sold in connection with a personal injury protection and property damage only policy, or any product not regulated under the provisions of this insurance code

Section 3. Amends s 627 848, F S , relating to cancellation of insurance contract upon default, to revise refund procedures to require the insurer to remit to the premium finance company the gross amount available, including unearned commissions After satisfying the premium finance agreement, the premium finance company, rather than the insurer, would refund the remaining unearned premium for a personal lines policy to the insured In the case of a commercial lines policy, the premium finance company would return the remaining unearned premium to either the agent or the insured, or both

Section 4. Provides for the act to take effect upon becoming a law

A Municipality/County Mandates Restrictions

None

B Public Records/Open Meetings Issues

None

C Trust Funds Restrictions

None

V. Economic Impact and Fiscal Note:

A Tax/Fee Issues

None

B Private Sector Impact.

The department has estimated that the errors and omissions coverage in the amount of \$500,000 would cost in the range of \$5,000 - \$10,000 annually for a licensee

Due to the elimination of the requirement for submitting audited financial statements for licensure, licensees will experience a decrease in accounting expenses

C. Government Sector Impact

The department does not anticipate incurring any additional expenses as the result of the implementation of the bill

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
