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HOUSE OF REPRESENTATIVES

COUNCIL FOR COMPETITIVE COMMERCE
ANALYSIS

BILL #: CS/HB 1247

RELATING TO: Premium Financing by an Insurer or Subsidiary

SPONSOR(S): Committee on Insurance and Representative Ross

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

(1) INSURANCE YEAS 13 NAYS 1
(2) COUNCIL FOR COMPETITIVE COMMERCE
(3)
(4)
(5)

I. SUMMARY:

Premiums may be paid in installments through a premium finance company or an installment plan set up by an insurance company, agent, or agency. A premium finance company makes premium payments to an insurance company and collects installment payments from the insureds.

Under current law an insurance company or insurance agent or agency not licensed as a premium finance company may collect service charges of up to a maximum of $12 annually depending on the amount of the premium balance or, in lieu of these charges, charge an annual rate of interest not to exceed 18 percent on the unpaid balance. In contrast, entities licensed as a premium finance company may charge a broader range of fees, including service charges of up to $12 per $100 per year, plus an additional $20 set-up charge; a delinquency and collection charge of up to $10, cancellation charges or attorney's fees under certain circumstances, and insufficient funds fees of $15.

Under this bill, the insurance company would be allowed to charge, in addition to the fees or interest currently allowed, certain other charges, or a portion of those charges, that premium finance companies are currently allowed to charge.

Also, an insurance company would have to be licensed as a premium finance company if it offers an installment payment plan that exceeds, rather than "substantially" exceeds, the service charge permitted of agents or agencies.

This bill would not have a fiscal impact on state or local government.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1. Less Government Yes [X] No [] N/A []

2. Lower Taxes Yes [] No [X] N/A []

   Permitting insurance companies to charge additional fees when using an installment arrangement for premium payments would increase costs to policyholders. However, many of these costs would not apply unless the policyholder was late or delinquent in making payments.

3. Individual Freedom Yes [X] No [] N/A []

4. Personal Responsibility Yes [X] No [] N/A []

5. Family Empowerment Yes [] No [] N/A [X]

B. PRESENT SITUATION:

Insurance premiums may be paid in installments through a premium finance company,[1] or an installment plan set up by an insurance company, agent, or agency. The charges allowed under premium financing arrangements are illustrated in the following table.

	Premium Finance Company[2]	**Agent or Agency**[3]	**Insurance Company**[4]
Licensure as premium finance company	Required.	Not required, unless total service charge or interest exceeds allowed charge or rate, see below.	Not required, unless charging "substantially" more than fees or interest allowed to agents and agencies.
Interest charges	No provision; service charge and other fees, only.	18 percent simple interest per year on unpaid balance, in lieu of allowed service charge.	Not "substantially" more than that allowed agents or agencies.
Service charges	$12 per $100 of premium financed, per year.	Not more than $1 per installment, or: $6 per year on premiums of $120 or less; $9 per year on premiums between $120 and $220; $12 per year on premiums over $220.	Not "substantially" more than that allowed agents or agencies.

[1] Premium finance companies are licensed by the Department of Insurance and must meet minimum net worth requirements and maintain an errors and omissions insurance policy of no less than $500,000. S. 627.828, F.S.
[2] Part XV, Ch. 627, F.S.
[3] Part XVI, Ch. 627, F.S.
[4] Id.

	Premium Finance Company[2]	**Agent or Agency**[3]	**Insurance Company**[4]
Other fees	"Set up" charge – $20, once annually. Delinquency or collection charge – $10 or 5 percent, whichever is greater.[5] Attorney's fees – not to exceed 20 percent. Insufficient funds – $15.	Not authorized.	Not authorized.

At the request of committee staff, the Department of Insurance prepared the following information to illustrate the maximum charge allowed of an insurance company, agent, or agency as well as the maximum allowed of a premium finance company.

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

	Principal Payment	**Number of Payments Outstanding**	**Outstanding Balance**	**Months since prior payment**	**Monthly interest rate**	**Maximum Charge**
	$166.75	4	$667.00	2	1.50%	$20.01
	$166.75	3	$500.25	1	1.50%	$7.50
	$166.75	2	$333.50	1	1.50%	$5.00
	$166.75	1	$166.75	1	1.50%	$2.50
Total	$667.00		$2,334.50			$35.02

Under this hypothetical the Department would permit the insurance company, agent, or agency to charge $35.02 in equal amounts over the four outstanding payments, or **$8.75 per installment**.

Under this same hypothetical, the Department would allow a premium finance company to charge $53.35, or **$13.34 per installment**. This is the result of a difference in the computation of the finance charge, in place of the interest rate, and the application of a $20 "set up" fee allowed by statute.

C. EFFECT OF PROPOSED CHANGES:

In addition to the fees or interest currently allowed, the insurance company would be allowed to charge certain other charges, or a portion of the charges, that premium finance companies are currently allowed to charge. These are an additional $10 set-up charge (one half of the charge allowed of premium finance companies); a delinquency and collection charge of up to $10 or 5 percent of the delinquent amount, whichever is greater;[6] attorney's fees under certain circumstances; and insufficient funds fees of $15.

Also, an insurance company offering an installment payment plan would have to be licensed as a premium finance company if they exceed, rather than "substantially" exceed, the service charges permitted of agents or agencies.

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

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 GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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

D. FISCAL COMMENTS:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

A separate but related bill, CS/HB 679, by the Committee on Insurance and Rep. Brown, also addresses premium finance charges. CS/HB 679 would allow insurance companies, agents, and agencies to charge interest of up to 18 percent simple interest per year on the average unpaid balance as billed over the term of the policy. The interest charge could be billed in equal monthly installments.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 6, 2002, the Committee on Insurance approved one amendment as amended by two amendments to the amendment and reported the bill favorably as a committee substitute.

The committee substitute differs from the original bill in that the committee substitute retains the current statute referencing the collection of interest or service charges by insurance companies but separately authorizes the collection of certain other specified charges. Additionally, the amount of the "set up" fee that would be authorized by the bill would be reduced by one half.

VII. SIGNATURES:

COMMITTEE ON INSURANCE:

Prepared by:	Staff Director:
Eric Lloyd	Stephen T. Hogge

AS REVISED BY THE COUNCIL FOR COMPETITIVE COMMERCE:

Prepared by:	Council Director:
Leonard Schulte	Matthew M. Carter II