

SENATE BILL NO. 239

INTRODUCED BY HAZELBAKER

IN THE SENATE

January 22, 1981	Introduced and referred to Committee on Business and Industry.
February 9, 1981	Committee recommend bill do pass as amended. Report adopted.
February 10, 1981	Bill printed and placed on members' desks.
February 11, 1981	Second reading, do pass.
February 12, 1981	Correctly engrossed.
February 13, 1981	Third reading, passed. Ayes, 50; Noes, 0. Transmitted to House.

IN THE HOUSE

February 14, 1981	Introduced and referred to Committee on Business and Industry.
March 13, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 19, 1981	Second reading, pass consideration.
March 20, 1981	Second reading, concurred in.
March 21, 1981	Segregated to the 64th legislative day.
March 23, 1981	Second reading, concurred in. Segregated.

March 24, 1981

Second reading, concurred in as amended.

March 26, 1981

Third reading, concurred in as amended. Ayes, 78; Noes, 17.

IN THE SENATE

March 27, 1981

Returned from House with amendments.

April 1, 1981

On motion, consideration be passed for the day.

April 2, 1981

Second reading, amendments concurred in.

April 4, 1981

Third reading, amendments concurred in. Ayes, 47; Noes, 0. Sent to enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. 239
 2 INTRODUCED BY *Haglund*

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING CREATION OF
 5 INSURANCE PREMIUM FINANCE COMPANIES; PROVIDING FOR LICENSES,
 6 FEES, AND RENEWALS; PROVIDING FOR INVESTIGATION OF
 7 APPLICANTS; PROVIDING FOR REVOCATION AND SUSPENSION OF
 8 LICENSES; REQUIRING MAINTENANCE OF RECORDS; PROVIDING FOR
 9 THE CONTENT, FORM, AND DELIVERY OF PREMIUM FINANCE
 10 AGREEMENTS; ESTABLISHING METHODS OF COMPUTING CHARGES;
 11 REGULATING DELINQUENCY CHARGES; PROVIDING FOR CANCELLATION
 12 UPON DEFAULT; REQUIRING RETURN OF UNEARNED PREMIUMS; AND
 13 PROVIDING FOR SECURITY INTEREST."

14
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 Section 1. Short title. [This act] may be cited as the
 17 "Insurance Premium Finance Company Act".

18 Section 2. Definitions. As used in [this act], the
 19 following definitions apply:

20 (1) "Insurance premium finance company" means a person
 21 engaged in the business of entering into premium finance
 22 agreements with insureds or of acquiring such premium
 23 finance agreements from insurance agents, brokers, or other
 24 premium finance companies.

25 (2) "Licensee" means a premium finance company holding

1 a license issued by the commissioner under [this act].
 2 (3) "Premium finance agreement" means an agreement by
 3 which an insured or prospective insured promises to pay to a
 4 premium finance company the amount advanced or to be
 5 advanced under the agreement to an insurer or to an
 6 insurance agent or broker in payment of premiums on an
 7 insurance contract, together with a service charge as
 8 authorized by [this act], and as security therefor the
 9 insurance premium finance company receives an assignment of
 10 the unearned premium.

11 Section 3. License -- required -- fee -- renewal of
 12 license. (1) Except as provided in subsection (4), no person
 13 may engage in the business of financing insurance premiums
 14 without first having obtained a license as a premium finance
 15 company from the commissioner. Any person who engages in the
 16 business of financing insurance premiums in the state
 17 without obtaining a license as provided under [this act] is,
 18 upon conviction, guilty of a misdemeanor.

19 (2) The annual license fee is \$100. A license may be
 20 renewed as of January 1 each year, upon payment of the fee
 21 of \$100. The license fee shall be paid to the commissioner.

22 (3) The person to whom the license or the renewal
 23 thereof is issued shall file sworn answers, subject to the
 24 penalties of perjury, to such interrogatories as the
 25 commissioner may require. The commissioner may, at any time,

1 require the applicant fully to disclose the identity of all
 2 stockholders, partners, officers, and employees, and he may,
 3 in his discretion, refuse to issue or renew a license in the
 4 name of any firm, partnership, or corporation if he is not
 5 satisfied that any officer, employee, stockholder, or
 6 partner thereof who may materially influence the applicant's
 7 conduct meets the standards of [this act].

8 (4) No person other than a savings and loan
 9 association, bank, trust company, or licensed sales finance
 10 company, credit union, or resident insurance agent who,
 11 within 15 days after entering into an insurance premium
 12 finance agreement, transfers the agreement to a licensee or
 13 to any of the organizations exempt under this subsection may
 14 engage in the business of entering into, acquiring, or
 15 holding insurance premium finance agreements unless licensed
 16 to do so by the commissioner.

17 Section 4. Investigation of applicant --
 18 qualifications -- hearing. (1) Upon the filing of an
 19 application and the payment of the license fee, the
 20 commissioner shall make an investigation of each applicant
 21 and shall issue a premium finance company license if the
 22 applicant is qualified in accordance with [this act]. If the
 23 commissioner does not so find, he shall within 30 days after
 24 he has received the application, at the request of the
 25 applicant, give the applicant a full hearing.

1 (2) The commissioner shall issue or renew a license as
 2 may be applied for when he is satisfied that the person to
 3 be licensed:

4 (a) is competent and trustworthy and intends to act in
 5 good faith in the capacity involved by the license applied
 6 for;

7 (b) has a good business reputation and has had
 8 experience, training, or education so as to be qualified in
 9 the business for which the license is applied for; and

10 (c) if a corporation, is a corporation incorporated
 11 under the laws of the state or a foreign corporation
 12 authorized to transact business in the state.

13 Section 5. License revocation -- suspension. The
 14 commissioner may revoke or suspend the license of a premium
 15 finance company when and if after investigation it appears
 16 to the commissioner that:

17 (1) a license issued to the company was obtained by
 18 fraud;

19 (2) there was misrepresentation in the application for
 20 the license;

21 (3) the holder of the license has otherwise shown
 22 himself untrustworthy or incompetent to act as a premium
 23 finance company; or

24 (4) the company has violated any provisions of [this
 25 act].

1 Section 6. Records required of licensees -- form --
 2 inspection. (1) Every premium finance company shall maintain
 3 records of its premium finance transactions, and the records
 4 shall be open to examination and investigation by the
 5 commissioner. The commissioner may at any time require the
 6 company to bring such records as he may direct to the
 7 commissioner's office for examination.

8 (2) Every premium finance company shall preserve its
 9 records of premium finance transactions for at least 3 years
 10 after making the final entry in respect to any premium
 11 finance agreement. The records may be preserved in
 12 photographic form.

13 Section 7. Premium finance agreements -- contents --
 14 form -- delivery. (1) A premium finance agreement shall:

15 (a) be dated, signed by the insured or by any person
 16 authorized in writing to act in behalf of the insured, and
 17 the printed portion thereof shall be in at least 8-point
 18 type;

19 (b) contain the name and place of business of the
 20 insurance agent negotiating the related insurance policy,
 21 the name and residence or the place of business of the
 22 insured as specified by him, the name and place of business
 23 of the premium finance company to which payments are to be
 24 made, and a description of the insurance policies involved
 25 and the amount of the premium therefor; and

1 (c) set forth when applicable:
 2 (i) the total amount of the premiums;
 3 (ii) the amount of the downpayment;
 4 (iii) the principal balance (the difference between the
 5 items enumerated in subsections (1)(c)(i) and (1)(c)(ii));
 6 (iv) the amount of the service charge;
 7 (v) the balance payable by the insured (the sum of the
 8 items enumerated in subsections (1)(c)(iii) and (1)(c)(iv));
 9 and
 10 (vi) the number of installments required, the amount of
 11 each installment expressed in dollars, and the due date or
 12 period thereof.

13 (2) The items set out in subsection (1)(c) need not be
 14 stated in the sequence or order in which they appear in that
 15 subsection, and additional items may be included to explain
 16 the computations made in determining the amount to be paid
 17 by the insured.

18 (3) The information required by subsection (1) may
 19 only be required in the initial agreement if the premium
 20 finance company and the insured enter into an open end
 21 credit transaction, which is defined as a plan prescribing
 22 the terms of credit transactions that may be made thereunder
 23 from time to time and under the terms of which a finance
 24 charge may be computed on the outstanding unpaid balance
 25 from time to time thereunder.

1 (4) The premium finance company or the insurance agent
2 shall deliver to the insured or mail to him at his address
3 shown in the agreement a complete copy of the agreement.

4 Section 8. Charges for premium financing regulated --
5 method of computation. (1) A premium finance company may not
6 charge, contract for, receive, or collect a service charge
7 other than as permitted by [this act].

8 (2) The service charge must be computed on the balance
9 of the premiums due (after subtracting the down payment made
10 by the insured in accordance with the premium finance
11 agreement) from the effective date of the insurance coverage
12 for which the premiums are being advanced to and including
13 the date when the final payment of the premium finance
14 agreement is payable.

15 (3) The service charge may not exceed interest at the
16 nominal annual rate of 21%, plus an additional charge of
17 \$12.50 per premium finance agreement which need not be
18 refunded upon cancellation or prepayment.

19 (4) An insured may prepay his premium finance
20 agreement in full at any time prior to the due date of the
21 final payment and in such event the unearned service charge
22 shall be refunded. The amount of any such refund must be
23 calculated in accordance with the rule commonly known as the
24 "rule of 78" and shall represent at least as great a
25 proportion of the service charge, if any, as the sum of the

1 periodic balances after the month in which prepayment is
2 made bears to the sum of all periodic balances under the
3 schedule of payments in the agreement.

4 Section 9. Delinquency charges regulated. (1) A
5 premium finance agreement may provide for the payment by the
6 insured of a delinquency charge of \$1 to a maximum of 5% of
7 the delinquent installment but not to exceed \$5 on any
8 installment that is in default for 5 days or more.

9 (2) If the default results in the cancellation of any
10 insurance contract listed in the agreement, the agreement
11 may provide for payment by the insured of a cancellation
12 charge equal to the difference between any delinquency
13 charge or default charge imposed with respect to the
14 installment in default and \$5. A premium finance agreement
15 may also provide for the payment of attorney's fees and
16 court costs if the agreement is referred for collection to
17 an attorney not a salaried employee of the insurance premium
18 finance company.

19 Section 10. Cancellation of insurance upon default.

20 (1) When a premium finance agreement contains a power of
21 attorney or other authority enabling the insurance premium
22 finance company to cancel any insurance contract listed in
23 the agreement, the insurance contract or contracts may not
24 be canceled by the premium finance company unless such
25 cancellation is effectuated in accordance with this section.

1 (2) Not less than 10 days' written notice must be
 2 mailed to the insured setting forth the intent of the
 3 insurance premium finance company to cancel the insurance
 4 contract unless the default is cured prior to the date
 5 stated in the notice. The insurance agent or broker
 6 indicated on the premium finance agreement shall also be
 7 mailed 10 days' notice of this action.

8 (3) Pursuant to the power of attorney or other
 9 authority referred to above, the insurance premium finance
 10 company may cancel on behalf of the insured by mailing to
 11 the insurer written notice stating when thereafter the
 12 cancellation shall be effective, and the insurance contract
 13 shall be canceled as if such notice of cancellation had been
 14 submitted by the insured himself but without requiring the
 15 return of the insurance contract. If the insurer or its
 16 agent does not provide the insurance premium finance company
 17 with a specific mailing address for the purpose of receipt
 18 of the above notice, mailing by the insurance premium
 19 finance company to the insurer at the address that is on
 20 file and of record with the commissioner is considered
 21 sufficient notice under this section. The insurance premium
 22 finance company shall also mail a notice of cancellation to
 23 the insured at his last-known address and to the insurance
 24 agent or broker indicated on the premium finance agreement.

25 (4) All statutory, regulatory, and contractual

1 restrictions providing that the insurance contract may not
 2 be canceled unless notice is given to a governmental agency,
 3 mortgagee, or other third party apply whenever cancellation
 4 is effected under the provisions of this section. The
 5 insurer shall give the prescribed notice in behalf of itself
 6 or the insured to any governmental agency, mortgagee, or
 7 other third party on or before the second business day after
 8 the day it receives the notice of cancellation from the
 9 premium finance company and shall determine the effective
 10 date of cancellation taking into consideration the number of
 11 days' notice required to complete the cancellation.

12 Section 11. Return of unearned premiums. (1) Whenever
 13 a financed insurance contract is canceled, the insurer shall
 14 return whatever gross unearned premiums are due under the
 15 insurance contract to the premium finance company for the
 16 account of the insured or insureds.

17 (2) If the crediting of the return premiums to the
 18 account of the insured results in a surplus over the amount
 19 due from the insured, the premium finance company shall
 20 refund the excess to the insured, except that no refund is
 21 required if such excess amounts to less than \$1.

22 Section 12. Agreement effective as security interest.
 23 No filing of the premium finance agreement or recording of a
 24 premium finance transaction shall be necessary to perfect
 25 the validity of the agreement as a secured transaction as

LC 2046/01

1 against creditors, subsequent purchasers, pledgees,
2 encumbrancers, successors, or assigns.

3 Section 13. Codification instruction. Sections 1
4 through 12 are intended to be codified as an integral part
5 of Title 33, and the provisions of Title 33 apply to
6 sections 1 through 12.

-End-

Approved by Committee
on Business and Industry

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20 renewed as of January 1 each year, upon payment of the fee
21 of \$100. The license fee shall be paid to the commissioner.
22 (3) The person to whom the license or the renewal
23 thereof is issued shall file sworn answers, subject to the
24 penalties of perjury, to such interrogatories as the
25 commissioner may require. The commissioner may, at any time,

1 require the applicant fully to disclose the identity of all
 2 stockholders, partners, officers, and employees, and he may,
 3 in his discretion, refuse to issue or renew a license in the
 4 name of any firm, partnership, or corporation if he is not
 5 satisfied that any officer, employee, stockholder, or
 6 partner thereof who may materially influence the applicant's
 7 conduct meets the standards of [this act].

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 9 association, bank, trust company, or licensed ~~notes~~ finance
 10 company, credit union, or resident insurance agent who,
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 12 finance agreement, transfers the agreement to a licensee or
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7 (b) has a good business reputation and has had
 8 experience, training, or education so as to be qualified in
 9 the business for which the license is applied for; and

10 (c) if a corporation, is a corporation incorporated
 11 under the laws of the state or a foreign corporation
 12 authorized to transact business in the state.

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21 (3) the holder of the license has otherwise shown
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 16 authorized in writing to act in behalf of the insured, and
 17 the printed portion thereof shall be in at least 8-point
 18 type;

19 (b) contain the name and place of business of the
 20 insurance agent negotiating the related insurance policy,
 21 the name and residence or the place of business of the
 22 insured as specified by him, the name and place of business
 23 of the premium finance company to which payments are to be
 24 made, and a description of the insurance policies involved
 25 and the amount of the premium therefor; and

1 (c) set forth when applicable:
 2 (i) the total amount of the premiums;
 3 (ii) the amount of the downpayment;
 4 (iii) the principal balance (the difference between the
 5 items enumerated in subsections (1)(c)(i) and (1)(c)(ii));
 6 (iv) the amount of the service charge;
 7 (v) the balance payable by the insured (the sum of the
 8 items enumerated in subsections (1)(c)(iii) and (1)(c)(iv));
 9 and

10 (vi) the number of installments required, the amount of
 11 each installment expressed in dollars, and the due date or
 12 period thereof.

13 (2) The items set out in subsection (1)(c) need not be
 14 stated in the sequence or order in which they appear in that
 15 subsection, and additional items may be included to explain
 16 the computations made in determining the amount to be paid
 17 by the insured.

18 (3) The information required by subsection (1) may
 19 only be required in the initial agreement if the premium
 20 finance company and the insured enter into an open end
 21 credit transaction, which is defined as a plan prescribing
 22 the terms of credit transactions that may be made thereunder
 23 from time to time and under the terms of which a finance
 24 charge may be computed on the outstanding unpaid balance
 25 from time to time thereunder.

1 (4) The premium finance company or the insurance agent
2 shall deliver to the insured or mail to him at his address
3 shown in the agreement a complete copy of the agreement.

4 Section 8. Charges for premium financing regulated --
5 method of computation. (1) A premium finance company may not
6 charge, contract for, receive, or collect a service charge
7 other than as permitted by [this act].

8 (2) The service charge must be computed on the balance
9 of the premiums due (after subtracting the down payment made
10 by the insured in accordance with the premium finance
11 agreement) from the effective date of the insurance coverage
12 for which the premiums are being advanced to and including
13 the date when the final payment of the premium finance
14 agreement is payable.

15 (3) ~~THE~~ NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
16 THE service charge may not exceed interest at the nominal
17 annual rate of 21%, plus an additional charge of \$12.50 per
18 premium finance agreement which need not be refunded upon
19 cancellation or prepayment.

20 (4) An insured may prepay his premium finance
21 agreement in full at any time prior to the due date of the
22 final payment and in such event the unearned service charge
23 shall be refunded. The amount of any such refund must be
24 calculated in accordance with the rule commonly known as the
25 "rule of 78" and shall represent at least as great a

1 proportion of the service charge, if any, as the sum of the
2 periodic balances after the month in which prepayment is
3 made bears to the sum of all periodic balances under the
4 schedule of payments in the agreement.

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6 premium finance agreement may provide for the payment by the
7 insured of a delinquency charge of \$1 to a maximum of 5% of
8 the delinquent installment but not to exceed \$5 on any
9 installment that is in default for 5 days or more.

10 (2) If the default results in the cancellation of any
11 insurance contract listed in the agreement, the agreement
12 may provide for payment by the insured of a cancellation
13 charge equal to the difference between any delinquency
14 charge or default charge imposed with respect to the
15 installment in default and \$5. A premium finance agreement
16 may also provide for the payment of attorney's fees and
17 court costs if the agreement is referred for collection to
18 an attorney not a salaried employee of the insurance premium
19 finance company.

20 Section 10. Cancellation of insurance upon default.

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22 attorney or other authority enabling the insurance premium
23 finance company to cancel any insurance contract listed in
24 the agreement, the insurance contract or contracts may not
25 be canceled by the premium finance company unless such

1 cancellation is effectuated in accordance with this section.

2 (2) Not less than 10 days' written notice must be
3 mailed to the insured setting forth the intent of the
4 insurance premium finance company to cancel the insurance
5 contract unless the default is cured prior to the date
6 stated in the notice. The insurance agent or broker
7 indicated on the premium finance agreement shall also be
8 mailed 10 days' notice of this action.

9 (3) Pursuant to the power of attorney or other
10 authority referred to above, the insurance premium finance
11 company may cancel on behalf of the insured by mailing to
12 the insurer written notice stating when thereafter the
13 cancellation shall be effective, and the insurance contract
14 shall be canceled as if such notice of cancellation had been
15 submitted by the insured himself but without requiring the
16 return of the insurance contract. If the insurer or its
17 agent does not provide the insurance premium finance company
18 with a specific mailing address for the purpose of receipt
19 of the above notice, mailing by the insurance premium
20 finance company to the insurer at the address that is on
21 file and of record with the commissioner is considered
22 sufficient notice under this section. The insurance premium
23 finance company shall also mail a notice of cancellation to
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25 agent or broker indicated on the premium finance agreement.

1 (4) All statutory, regulatory, and contractual
2 restrictions providing that the insurance contract may not
3 be canceled unless notice is given to a governmental agency,
4 mortgagee, or other third party apply whenever cancellation
5 is effected under the provisions of this section. The
6 insurer shall give the prescribed notice in behalf of itself
7 or the insured to any governmental agency, mortgagee, or
8 other third party on or before the second business day after
9 the day it receives the notice of cancellation from the
10 premium finance company and shall determine the effective
11 date of cancellation taking into consideration the number of
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14 a financed insurance contract is canceled, the insurer shall
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19 account of the insured results in a surplus over the amount
20 due from the insured, the premium finance company shall
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SB 0239/02

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(2) "Licensee" means a premium finance company holding

a license issued by the commissioner under [this act].

(3) "Premium finance agreement" means an agreement by which an insured or prospective insured promises to pay to a premium finance company the amount advanced or to be advanced under the agreement to an insurer or to an insurance agent or broker in payment of premiums on an insurance contract, together with a service charge as authorized by [this act], and as security therefor the insurance premium finance company receives an assignment of the unearned premium.

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(2) The annual license fee is \$100. A license may be renewed as of January 1 each year, upon payment of the fee of \$100. The license fee shall be paid to the commissioner.

(3) The person to whom the license or the renewal thereof is issued shall file sworn answers, subject to the penalties of perjury, to such interrogatories as the commissioner may require. The commissioner may, at any time,

1 require the applicant fully to disclose the identity of all
 2 stockholders, partners, officers, and employees, and he may,
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 4 name of any firm, partnership, or corporation if he is not
 5 satisfied that any officer, employee, stockholder, or
 6 partner thereof who may materially influence the applicant's
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17 Section 4. Investigation of applicant --
 18 qualifications -- hearing. (1) Upon the filing of an
 19 application and the payment of the license fee, the
 20 commissioner shall make an investigation of each applicant
 21 and shall issue a premium finance company license if the
 22 applicant is qualified in accordance with [this act]. If the
 23 commissioner does not so find, he shall within 30 days after
 24 he has received the application, at the request of the
 25 applicant, give the applicant a full hearing.

1 (2) The commissioner shall issue or renew a license as
 2 may be applied for when he is satisfied that the person to
 3 be licensed:

4 (a) is competent and trustworthy and intends to act in
 5 good faith in the capacity involved by the license applied
 6 for;

7 (b) has a good business reputation and has had
 8 experience, training, or education so as to be qualified in
 9 the business for which the license is applied for; and

10 (c) if a corporation, is a corporation incorporated
 11 under the laws of the state or a foreign corporation
 12 authorized to transact business in the state.

13 Section 5. License revocation -- suspension. The
 14 commissioner may revoke or suspend the license of a premium
 15 finance company when and if after investigation it appears
 16 to the commissioner that:

17 (1) a license issued to the company was obtained by
 18 fraud;

19 (2) there was misrepresentation in the application for
 20 the license;

21 (3) the holder of the license has otherwise shown
 22 himself untrustworthy or incompetent to act as a premium
 23 finance company; or

24 (4) the company has violated any provisions of [this
 25 act].

1 Section 6. Records required of licensees -- form --
 2 inspection. (1) Every premium finance company shall maintain
 3 records of its premium finance transactions, and the records
 4 shall be open to examination and investigation by the
 5 commissioner. The commissioner may at any time require the
 6 company to bring such records as he may direct to the
 7 commissioner's office for examination.

8 (2) Every premium finance company shall preserve its
 9 records of premium finance transactions for at least 3 years
 10 after making the final entry in respect to any premium
 11 finance agreement. The records may be preserved in
 12 photographic form.

13 Section 7. Premium finance agreements -- contents --
 14 form -- delivery. (1) A premium finance agreement shall:

15 (a) be dated, signed by the insured or by any person
 16 authorized in writing to act in behalf of the insured, and
 17 the printed portion thereof shall be in at least 8-point
 18 type;

19 (b) contain the name and place of business of the
 20 insurance agent negotiating the related insurance policy,
 21 the name and residence or the place of business of the
 22 insured as specified by him, the name and place of business
 23 of the premium finance company to which payments are to be
 24 made, and a description of the insurance policies involved
 25 and the amount of the premium therefor; and

1 (c) set forth when applicable:
 2 (i) the total amount of the premiums;
 3 (ii) the amount of the downpayment;
 4 (iii) the principal balance (the difference between the
 5 items enumerated in subsections (1)(c)(i) and (1)(c)(ii));
 6 (iv) the amount of the service charge;
 7 (v) the balance payable by the insured (the sum of the
 8 items enumerated in subsections (1)(c)(iii) and (1)(c)(iv));
 9 and
 10 (vi) the number of installments required, the amount of
 11 each installment expressed in dollars, and the due date or
 12 period thereof.

13 (2) The items set out in subsection (1)(c) need not be
 14 stated in the sequence or order in which they appear in that
 15 subsection, and additional items may be included to explain
 16 the computations made in determining the amount to be paid
 17 by the insured.

18 (3) The information required by subsection (1) may
 19 only be required in the initial agreement if the premium
 20 finance company and the insured enter into an open end
 21 credit transaction, which is defined as a plan prescribing
 22 the terms of credit transactions that may be made thereunder
 23 from time to time and under the terms of which a finance
 24 charge may be computed on the outstanding unpaid balance
 25 from time to time thereunder.

1 (4) The premium finance company or the insurance agent
2 shall deliver to the insured or mail to him at his address
3 shown in the agreement a complete copy of the agreement.

4 Section 8. Charges for premium financing regulated --
5 method of computation. (1) A premium finance company may not
6 charge, contract for, receive, or collect a service charge
7 other than as permitted by [this act].

8 (2) The service charge must be computed on the balance
9 of the premiums due (after subtracting the down payment made
10 by the insured in accordance with the premium finance
11 agreement) from the effective date of the insurance coverage
12 for which the premiums are being advanced to and including
13 the date when the final payment of the premium finance
14 agreement is payable.

15 (3) The NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
16 THE service charge may not exceed interest at the nominal
17 annual rate of 21%, plus an additional charge of \$12.50 per
18 premium finance agreement which need not be refunded upon
19 cancellation or prepayment.

20 (4) An insured may prepay his premium finance
21 agreement in full at any time prior to the due date of the
22 final payment and in such event the unearned service charge
23 shall be refunded. The amount of any such refund must be
24 calculated in accordance with the rule commonly known as the
25 "rule of 78" and shall represent at least as great a

1 proportion of the service charge, if any, as the sum of the
2 periodic balances after the month in which prepayment is
3 made bears to the sum of all periodic balances under the
4 schedule of payments in the agreement.

5 Section 9. Delinquency charges regulated. (1) A
6 premium finance agreement may provide for the payment by the
7 insured of a delinquency charge of \$1 to a maximum of 5% of
8 the delinquent installment but not to exceed \$5 on any
9 installment that is in default for 5 days or more.

10 (2) If the default results in the cancellation of any
11 insurance contract listed in the agreement, the agreement
12 may provide for payment by the insured of a cancellation
13 charge equal to the difference between any delinquency
14 charge or default charge imposed with respect to the
15 installment in default and \$5. A premium finance agreement
16 may also provide for the payment of attorney's fees and
17 court costs if the agreement is referred for collection to
18 an attorney not a salaried employee of the insurance premium
19 finance company.

20 Section 10. Cancellation of insurance upon default.
21 (1) When a premium finance agreement contains a power of
22 attorney or other authority enabling the insurance premium
23 finance company to cancel any insurance contract listed in
24 the agreement, the insurance contract or contracts may not
25 be canceled by the premium finance company unless such

1 cancellation is effectuated in accordance with this section.

2 (2) Not less than 10 days' written notice must be
3 mailed to the insured setting forth the intent of the
4 insurance premium finance company to cancel the insurance
5 contract unless the default is cured prior to the date
6 stated in the notice. The insurance agent or broker
7 indicated on the premium finance agreement shall also be
8 mailed 10 days' notice of this action.

9 (3) Pursuant to the power of attorney or other
10 authority referred to above, the insurance premium finance
11 company may cancel on behalf of the insured by mailing to
12 the insurer written notice stating when thereafter the
13 cancellation shall be effective, and the insurance contract
14 shall be canceled as if such notice of cancellation had been
15 submitted by the insured himself but without requiring the
16 return of the insurance contract. If the insurer or its
17 agent does not provide the insurance premium finance company
18 with a specific mailing address for the purpose of receipt
19 of the above notice, mailing by the insurance premium
20 finance company to the insurer at the address that is on
21 file and of record with the commissioner is considered
22 sufficient notice under this section. The insurance premium
23 finance company shall also mail a notice of cancellation to
24 the insured at his last-known address and to the insurance
25 agent or broker indicated on the premium finance agreement.

1 (4) All statutory, regulatory, and contractual
2 restrictions providing that the insurance contract may not
3 be canceled unless notice is given to a governmental agency,
4 mortgagee, or other third party apply whenever cancellation
5 is effected under the provisions of this section. The
6 insurer shall give the prescribed notice in behalf of itself
7 or the insured to any governmental agency, mortgagee, or
8 other third party on or before the second business day after
9 the day it receives the notice of cancellation from the
10 premium finance company and shall determine the effective
11 date of cancellation taking into consideration the number of
12 days' notice required to complete the cancellation.

13 Section 11. Return of unearned premiums. (1) Whenever
14 a financed insurance contract is canceled, the insurer shall
15 return whatever gross unearned premiums are due under the
16 insurance contract to the premium finance company for the
17 account of the insured or insureds.

18 (2) If the crediting of the return premiums to the
19 account of the insured results in a surplus over the amount
20 due from the insured, the premium finance company shall
21 refund the excess to the insured, except that no refund is
22 required if such excess amounts to less than \$1.

23 Section 12. Agreement effective as security interest.
24 No filing of the premium finance agreement or recording of a
25 premium finance transaction shall be necessary to perfect

1 the validity of the agreement as a secured transaction as
2 against creditors, subsequent purchasers, pledgees,
3 encumbrancers, successors, or assigns.

4 Section 13. Codification instruction. Sections 1
5 through 12 are intended to be codified as an integral part
6 of Title 33, and the provisions of Title 33 apply to
7 sections 1 through 12.

-End-

1 SENATE BILL NO. 239

2 INTRODUCED BY HAZELBAKER

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING CREATION OF
5 INSURANCE PREMIUM FINANCE COMPANIES; PROVIDING FOR LICENSES,
6 FEES, AND RENEWALS; PROVIDING FOR INVESTIGATION OF
7 APPLICANTS; PROVIDING FOR REVOCATION AND SUSPENSION OF
8 LICENSES; REQUIRING MAINTENANCE OF RECORDS; PROVIDING FOR
9 THE CONTENT, FORM, AND DELIVERY OF PREMIUM FINANCE
10 AGREEMENTS; ESTABLISHING METHODS OF COMPUTING CHARGES;
11 REGULATING DELINQUENCY CHARGES; PROVIDING FOR CANCELLATION
12 UPON DEFAULT; REQUIRING RETURN OF UNEARNED PREMIUMS; AND
13 PROVIDING FOR SECURITY INTEREST; AND PROVIDING FOR CERTAIN
14 EXCEPTIONS."

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:17 Section 1. Short title. [This act] may be cited as the
18 "Insurance Premium Finance Company Act".19 Section 2. Definitions. As used in [this act], the
20 following definitions apply:21 (1) "Insurance premium finance company" means a person
22 engaged in the business of entering into premium finance
23 agreements with insureds or of acquiring such premium
24 finance agreements from insurance agents, brokers, or other
25 premium finance companies.1 (2) "Licensee" means a premium finance company holding
2 a license issued by the commissioner under [this act].3 (3) "Premium finance agreement" means an agreement by
4 which an insured or prospective insured promises to pay to a
5 premium finance company the amount advanced or to be
6 advanced under the agreement to an insurer or to an
7 insurance agent or broker in payment of premiums on an
8 insurance contract, together with a service FINANCE charge
9 as authorized by [this act], and as security therefor the
10 insurance premium finance company receives an assignment of
11 the unearned premium.12 Section 3. License -- required -- fee -- renewal of
13 license. (1) Except as provided in subsection (4), no person
14 may engage in the business of financing insurance premiums
15 without first having obtained a license as a premium finance
16 company from the commissioner. Any person who engages in the
17 business of financing insurance premiums in the state
18 without obtaining a license as provided under [this act] is,
19 upon conviction, guilty of a misdemeanor.20 (2) The annual license fee is \$100. A license may be
21 renewed as of January 1 each year, upon payment of the fee
22 of \$100. The license fee shall be paid to the commissioner.23 (3) The person to whom the license or the renewal
24 thereof is issued shall file sworn answers, subject to the
25 penalties of perjury, to such interrogatories as the

1 commissioner may require. The commissioner may, at any time,
 2 require the applicant fully to disclose the identity of all
 3 stockholders, partners, officers, and employees, and he may,
 4 in his discretion, refuse to issue or renew a license in the
 5 name of any firm, partnership, or corporation if he is not
 6 satisfied that any officer, employee, stockholder, or
 7 partner thereof who may materially influence the applicant's
 8 conduct meets the standards of [this act].

9 (4) No person other than a savings and loan
 10 association, bank, trust company, or licensed sales finance
 11 company, credit union, or resident insurance agent who,
 12 within 15 days after entering into an insurance premium
 13 finance agreement, transfers the agreement to a licensee or
 14 to any of the organizations exempt under this subsection may
 15 engage in the business of entering into, acquiring, or
 16 holding insurance premium finance agreements unless licensed
 17 to do so by the commissioner.

18 Section 4. Investigation of applicant --
 19 qualifications -- hearing. (1) Upon the filing of an
 20 application and the payment of the license fee, the
 21 commissioner shall make an investigation of each applicant
 22 and shall issue a premium finance company license if the
 23 applicant is qualified in accordance with [this act]. If the
 24 commissioner does not so find, he shall within 30 days after
 25 he has received the application, at the request of the

1 applicant, give the applicant a full hearing.

2 (2) The commissioner shall issue or renew a license as
 3 may be applied for when he is satisfied that the person to
 4 be licensed:

5 (a) is competent and trustworthy and intends to act in
 6 good faith in the capacity involved by the license applied
 7 for;

8 (b) has a good business reputation and has had
 9 experience, training, or education so as to be qualified in
 10 the business for which the license is applied for; and

11 (c) if a corporation, is a corporation incorporated
 12 under the laws of the state or a foreign corporation
 13 authorized to transact business in the state.

14 Section 5. License revocation -- suspension. The
 15 commissioner may revoke or suspend the license of a premium
 16 finance company when and if after investigation it appears
 17 to the commissioner that:

18 (1) a license issued to the company was obtained by
 19 fraud;

20 (2) there was misrepresentation in the application for
 21 the license;

22 (3) the holder of the license has otherwise shown
 23 himself untrustworthy or incompetent to act as a premium
 24 finance company; or

25 (4) the company has violated any provisions of [this

1 act].

2 Section 6. Records required of licensees -- form --
3 inspection. (1) Every premium finance company shall maintain
4 records of its premium finance transactions, and the records
5 shall be open to examination and investigation by the
6 commissioner. The commissioner may at any time require the
7 company to bring such records as he may direct to the
8 commissioner's office for examination.

9 (2) Every premium finance company shall preserve its
10 records of premium finance transactions for at least 3 years
11 after making the final entry in respect to any premium
12 finance agreement. The records may be preserved in
13 photographic form.

14 Section 7. Premium finance agreements -- contents --
15 form -- delivery. (1) A premium finance agreement shall:

16 (a) be dated, signed by the insured or by any person
17 authorized in writing to act in behalf of the insured, and
18 the printed portion thereof shall be in at least 8-point
19 type;

20 (b) contain the name and place of business of the
21 insurance agent negotiating the related insurance policy,
22 the name and residence or the place of business of the
23 insured as specified by him, the name and place of business
24 of the premium finance company to which payments are to be
25 made, and a description of the insurance policies involved

1 and the amount of the premium therefor; and

2 (c) set forth when applicable:

3 (i) the total amount of the premiums;

4 (ii) the amount of the downpayment;

5 (iii) the principal balance (the difference between the
6 items enumerated in subsections (1)(c)(i) and (1)(c)(ii));

7 (iv) the amount of the service FINANCE charge;

8 (v) the balance payable by the insured (the sum of the
9 items enumerated in subsections (1)(c)(iii) and (1)(c)(iv));

10 and

11 (vi) the number of installments required, the amount of
12 each installment expressed in dollars, and the due date or
13 period thereof.

14 (2) The items set out in subsection (1)(c) need not be
15 stated in the sequence or order in which they appear in that
16 subsection, and additional items may be included to explain
17 the computations made in determining the amount to be paid
18 by the insured.

19 (3) The information required by subsection (1) may
20 only be required in the initial agreement if the premium
21 finance company and the insured enter into an open end
22 credit transaction, which is defined as a plan prescribing
23 the terms of credit transactions that may be made thereunder
24 from time to time and under the terms of which a finance
25 charge may be computed on the outstanding unpaid balance

1 from time to time thereunder.

2 (4) The premium finance company or the insurance agent
3 shall deliver to the insured or mail to him at his address
4 shown in the agreement a complete copy of the agreement.

5 Section 8. Charges for premium financing regulated --
6 method of computation. (1) A premium finance company may not
7 charge, contract for, receive, or collect a service FINANCE
8 charge other than as permitted by [this act].

9 (2) The service FINANCE charge must be computed on the
10 balance of the premiums due (after subtracting the down
11 payment made by the insured in accordance with the premium
12 finance agreement) from the effective date of the insurance
13 coverage for which the premiums are being advanced to and
14 including the date when the final payment of the premium
15 finance agreement is payable.

16 (3) THE NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
17 THE service FINANCE charge may not exceed interest at the
18 nominal annual rate of 21%, plus an additional A SERVICE
19 charge of \$12.50 per premium finance agreement, which THE
20 SERVICE CHARGE OF \$12.50 need not be refunded upon
21 cancellation or prepayment.

22 (4) An insured may prepay his premium finance
23 agreement in full at any time prior to the due date of the
24 final payment and in such event the unearned service FINANCE
25 charge shall be refunded. ~~The amount of any such refund must~~

1 ~~be calculated in accordance with the rate commonly known as~~
2 ~~the "rate of 78" and shall represent at least as great a~~
3 ~~proportion of the service FINANCE charges, if any, as the sum~~
4 ~~of the periodic balances after the month in which prepayment~~
5 ~~is made bears to the sum of all periodic balances under the~~
6 ~~schedule of payments in the agreement.~~

7 Section 9. Delinquency charges regulated. (1) A
8 premium finance agreement may provide for the payment by the
9 insured of a delinquency charge of \$1 to a maximum of 5% of
10 the delinquent installment but not to exceed \$5 on any
11 installment that is in default for 5 days or more.

12 (2) If the default results in the cancellation of any
13 insurance contract listed in the agreement, the agreement
14 may provide for payment by the insured of a cancellation
15 charge equal to the difference between any delinquency
16 charge or default charge imposed with respect to the
17 installment in default and \$5. A premium finance agreement
18 may also provide for the payment of attorney's fees and
19 court costs if the agreement is referred for collection to
20 an attorney not a salaried employee of the insurance premium
21 finance company.

22 Section 10. Cancellation of insurance upon default.
23 (1) When a premium finance agreement contains a power of
24 attorney or other authority enabling the insurance premium
25 finance company to cancel any insurance contract listed in

1 the agreement, the insurance contract or contracts may not
2 be canceled by the premium finance company unless such
3 cancellation is effectuated in accordance with this section.

4 (2) Not less than 10 days' written notice must be
5 mailed to the insured setting forth the intent of the
6 insurance premium finance company to cancel the insurance
7 contract unless the default is cured prior to the date
8 stated in the notice. The insurance agent or broker
9 indicated on the premium finance agreement shall also be
10 mailed 10 days' notice of this action.

11 (3) Pursuant to the power of attorney or other
12 authority referred to above, the insurance premium finance
13 company may cancel on behalf of the insured by mailing to
14 the insurer written notice stating when thereafter the
15 cancellation shall be effective, and the insurance contract
16 shall be canceled as if such notice of cancellation had been
17 submitted by the insured himself but without requiring the
18 return of the insurance contract. If the insurer or its
19 agent does not provide the insurance premium finance company
20 with a specific mailing address for the purpose of receipt
21 of the above notice, mailing by the insurance premium
22 finance company to the insurer at the address that is on
23 file and of record with the commissioner is considered
24 sufficient notice under this section. The insurance premium
25 finance company shall also mail a notice of cancellation to

1 the insured at his last-known address and to the insurance
2 agent or broker indicated on the premium finance agreement.

3 (4) All statutory, regulatory, and contractual
4 restrictions providing that the insurance contract may not
5 be canceled unless notice is given to a governmental agency,
6 mortgagee, or other third party apply whenever cancellation
7 is effected under the provisions of this section. The
8 insurer shall give the prescribed notice in behalf of itself
9 or the insured to any governmental agency, mortgagee, or
10 other third party on or before the second business day after
11 the day it receives the notice of cancellation from the
12 premium finance company and shall determine the effective
13 date of cancellation taking into consideration the number of
14 days' notice required to complete the cancellation.

15 Section 11. Return of unearned premiums. (1) Whenever
16 a financed insurance contract is canceled, the insurer shall
17 return whatever gross unearned premiums are due under the
18 insurance contract to the premium finance company for the
19 account of the insured or insureds.

20 (2) If the crediting of the return premiums to the
21 account of the insured results in a surplus over the amount
22 due from the insured, the premium finance company shall
23 refund the excess to the insured, except that no refund is
24 required if such excess amounts to less than \$1.

25 Section 12. Agreement effective as security interest.

1 No filing of the premium finance agreement or recording of a
2 premium finance transaction shall be necessary to perfect
3 the validity of the agreement as a secured transaction as
4 against creditors, subsequent purchasers, pledgees,
5 encumbrancers, successors, or assigns.

6 SECTION 13. EXCEPTIONS. [THIS ACT] DOES NOT APPLY TO
7 ANY INSURANCE COMPANY OR INSURANCE COMPANIES AFFILIATED
8 UNDER THE SAME MANAGEMENT AND CONTROL AUTHORIZED TO DO
9 BUSINESS IN THIS STATE WHICH PROVIDE INSTALLMENT PREMIUM
10 PAYMENTS PROGRAMS AT NO INTEREST TO POLICYHOLDERS OR TO AN
11 INSURANCE AGENT LICENSED TO DO BUSINESS IN THIS STATE ON
12 POLICIES WRITTEN BY THE AGENT OR ISSUED BY THE COMPANY OR
13 COMPANIES.

14 Section 14. Codification instruction. Sections 1
15 through ~~12~~ 13 are intended to be codified as an integral
16 part of Title 33, and the provisions of Title 33 apply to
17 sections 1 through ~~12~~ 13.

-End-

House amendments to Senate Bill 239:

1. Page 7, line 23 through line 4 on page 8.

Following: "refunded." on line 23

Strike: the remainder of line 23 on page 7 through line 4
on page 8 in their entirety

March 12, 1981

SENATE BILL 239

THE HOUSE BUSINESS AND INDUSTRY COMMITTEE amends SB 239 in the third reading copy as follows:

1. Title, line 12.

Following: "PREMIUMS:"

Strike: "AND"

2. Title, line 13.

Following: "INTEREST"

Insert: "; AND PROVIDING FOR CERTAIN EXCEPTIONS"

3. Page 2, line 7.

Following: "a"

Strike: "service"

Insert: "finance"

4. Page 6, line 6.

Following: "of the"

Strike: "service"

Insert: "finance"

5. Page 7, line 6.

Following: "a"

Strike: "service"

Insert: "finance"

6. Page 7, line 8.

Following: "The"

Strike: "service"

Insert: "finance"

7. Page 7, line 16.

Following: "THE"

Strike: "service"

Insert: "finance"

Following: "the"

Strike: "nominal"

8. Page 7, line 17.

Following: "llis"

Strike: "an additional"

Insert: "a service"

9. Page 7, line 18.

Following: "agreement"

Insert: "."

Strike: "which"

Insert: "The service charge of \$12.50"

10. Page 7, line 22.

Following: "unearned"

Strike: "service"

Insert: "finance"

11. Page 8, line 1.
Following: "proportion of the"
Strike: "service"
Insert: "finance"

12. Page 11, following line 3.
Insert: "Section 13. Exceptions. [This act] does not apply to any insurance company or insurance companies affiliated under the same management and control authorized to do business in this state which provide installment premium payments programs at no interest to policyholders or to an insurance agent licensed to do business in this state on policies written by the agent or issued by the company or companies."

Re-number: subsequent section

13. Page 11, line 5.
Following: "through"
Strike: "12"
Insert: "13"

14. Page 11, line 7.
Following: "through"
Strike: "12"
Insert: "13"

BE CONCURRED IN AS AMENDED

March 12, 1981

SENATE BILL 239

THE HOUSE BUSINESS AND INDUSTRY COMMITTEE amends SB 239 in the third reading copy as follows: (Corrected Copy)

1. Title, line 12.

Following: "PREMIUMS;"

Strike: "AND"

2. Title, line 13.

Following: "INTEREST"

Insert: "; AND PROVIDING FOR CERTAIN EXCEPTIONS"

3. Page 2, line 7.

Following: "a"

Strike: "service"

Insert: "finance"

4. Page 6, line 6.

Following: "of the"

Strike: "service"

Insert: "finance"

5. Page 7, line 6.

Following: "a"

Strike: "service"

Insert: "finance"

6. Page 7, line 8.

Following: "The"

Strike: "service"

Insert: "finance"

7. Page 7, line 16.

Following: "THE"

Strike: "service"

Insert: "finance"

Following: "the"

Strike: "nominal"

8. Page 7, line 17.

Following: "plus"

Strike: "an additional"

Insert: "a service"

9. Page 7, line 18.

Following: "agreement"

Insert: "."

Strike: "which"

Insert: "The service charge of \$12.50"

10. Page 7, line 22.

Following: "unearned"

Strike: "service"

Insert: "finance"

11. Page 8, line 1.
Following: "proportion of the"
Strike: "service"
Insert: "finance"

12. Page 11, following line 3.
Insert: "Section 13. Exceptions. [This act] does not apply to any insurance company or insurance companies affiliated under the same management and control authorized to do business in this state which provide installment premium payments programs at no interest to policyholders or to an insurance agent licensed to do business in this state on policies written by the agent or issued by the company or companies."

Renumber: subsequent section

13. Page 11, line 5.
Following: "through"
Strike: "12"
Insert: "13"

14. Page 11, line 7.
Following: "through"
Strike: "12"
Insert: "13"

BE CONCURRED IN AS AMENDED