

INSURANCE
(215 ILCS 5/) Illinois Insurance Code.

(215 ILCS 5/Art. XXXIIIA heading)

ARTICLE XXXIIIA. PREMIUM FINANCE REGULATION

(215 ILCS 5/513a1) (from Ch. 73, par. 1065.60a1)
Sec. 513a1. Scope of Article.

(a) Except as provided in subsection (b), this Article applies to all persons engaged in the business of financing insurance premiums, entering into premium finance agreements, or otherwise acquiring premium finance agreements, and insurance companies and insurance producers as defined in this Code, except in connection with premiums on the kinds of business described as Class 1(a) or Class 1(b) of Section 4.

(b) Except for the provisions of Section 513a11 that apply to all premium financing agreements in which the right to cancel one or more policies of insurance on behalf of the named has been assigned to the lender, this Article does not apply to the following entities:

(1) Credit unions, as defined in the Illinois Credit Union Act.

(2) Banks, as defined in the Illinois Banking Act.

(3) Savings and loan associations, as defined in the Illinois Savings and Loan Act of 1985.

(4) Persons operating under the provisions of Section 4a of the Interest Act.

(5) Persons operating under the Consumer Installment Loan Act or the Consumer Finance Act.

(6) Persons that acquire premium finance agreements from insurance companies and entities described in paragraphs (1) through (5).

(Source: P.A. 87-811.)

(215 ILCS 5/513a2) (from Ch. 73, par. 1065.60a2)
Sec. 513a2. Definitions.

(a) "Accepted agreement" means a premium finance agreement deemed to be accepted by a premium finance company when a binder number or policy number is provided for each policy premium listed on the premium finance agreement and premium payment book or when the first premium payment notice has been sent to the named insured.

(b) "Financing insurance premiums" means to be engaged in the practice of:

(1) advancing monies directly or indirectly to an insurer pursuant to the terms of an acquired premium finance agreement; or

(2) allowing 10% or more of a producer's or registered firm's premium accounts receivable to be more than 90 days past due.

(c) "Premium finance agreement" means a promissory note, loan contract, or agreement by which an insured or prospective insured promises to pay to another person an amount advanced or to be advanced thereunder to an insurer in payment of premiums on an insurance contract together with a service charge and which contains an assignment of or is otherwise secured by the unearned premium payable by the insurer upon cancellation of the insurance contract; provided, however,

that a premium finance agreement shall not include an installment sale contract, lease agreement, security agreement, or mortgage covering personal or real property that includes a charge for insurance or pursuant to which the vendor, lessor, lienholder, or mortgagee is authorized to pay or advance the premium for insurance with respect to that property.

(d) "Premium finance company" means any person engaged in the business of financing insurance premiums, of entering into premium finance agreements with insureds, or of acquiring premium finance agreements.

(Source: P.A. 90-655, eff. 7-30-98.)

(215 ILCS 5/513a3) (from Ch. 73, par. 1065.60a3)
Sec. 513a3. License required.

(a) No person may act as a premium finance company or hold himself out to be engaged in the business of financing insurance premiums, either directly or indirectly, without first having obtained a license as a premium finance company from the Director.

(b) An insurance producer shall be deemed to be engaged in the business of financing insurance premiums if 10% or more of the producer's total premium accounts receivable are more than 90 days past due.

(c) In addition to any other penalty set forth in this Article, any person violating subsection (a) of this Section may, after hearing as set forth in Article XXIV of this Code, be required to pay a civil penalty of not more than \$2,000 for each offense.

(d) In addition to any other penalty set forth in this Article, any person violating subsection (a) of this Section is guilty of a Class A misdemeanor. Any individual violating subsection (a) of this Section, and misappropriating or converting any monies collected in conjunction with the violation, is guilty of a Class 4 felony.

(Source: P.A. 93-32, eff. 7-1-03.)

(215 ILCS 5/513a4) (from Ch. 73, par. 1065.60a4)
Sec. 513a4. Application and license.

(a) Each application for a premium finance license shall be made on a form specified by the Director and shall be signed by the applicant declaring under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the applicant's knowledge and belief. The Director shall cause to be issued a license to each applicant that has demonstrated to the Director that the applicant:

(1) is competent and trustworthy and of a good business reputation;

(2) has a minimum net worth of \$50,000; and

(3) has paid the fees required by this Article.

(b) Each applicant at the time of request for a license or renewal of a license shall:

(1) certify that no charge for financing premiums shall exceed the rates permitted by this Article;

(2) certify that the premium finance agreement or other forms being used are in compliance with the requirements of this Article;

(3) certify that he or she has a minimum net worth

of \$50,000; and

(4) attach with the application a non-refundable annual fee of \$400.

(c) An applicant who has met the requirements of subsection (a) and subsection (b) shall be issued a premium finance license.

(d) Each premium finance license shall remain in effect as long as the holder of the license annually continues to meet the requirements of subsections (a) and (b) by the due date unless the license is revoked or suspended by the Director.

(e) The individual holder of a premium finance license shall inform the Director in writing of a change in residence address within 30 days of the change, and a corporation, partnership, or association holder of a premium finance license shall inform the Director in writing of a change in business address within 30 days of the change.

(f) Every partnership or corporation holding a license as a premium finance company shall appoint one or more partners or officers to be responsible for the firm's compliance with the Illinois Insurance Code and applicable rules and regulations. Any change in the appointed person or persons shall be reported to the Director in writing within 30 days of the change.

(Source: P.A. 93-32, eff. 7-1-03.)

(215 ILCS 5/513a5) (from Ch. 73, par. 1065.60a5)

Sec. 513a5. Insurance Producer Administration Fund. All fees and penalties paid to and collected by the Director under this Article shall be paid promptly after receipt, together with a detailed statement of the fees, into the Insurance Producers Administration Fund.

(Source: P.A. 87-811.)

(215 ILCS 5/513a6) (from Ch. 73, par. 1065.60a6)

Sec. 513a6. Felony convictions. Any person or authorized member of a partnership or corporation who, while licensed as a premium finance company, is convicted of a felony shall report the conviction to the Director within 30 days of the entry date of the judgement. Within that 30 day period, the person shall also provide the Director with a copy of the judgement, the probation or commitment order, and any other relevant document.

(Source: P.A. 87-811.)

(215 ILCS 5/513a7) (from Ch. 73, par. 1065.60a7)

Sec. 513a7. License suspension; revocation or denial.

(a) Any license issued under this Article may be suspended, revoked, or denied if the Director finds that the licensee or applicant:

(1) has wilfully violated any provisions of this Code or the rules and regulations thereunder;

(2) has intentionally made a material misstatement in the application for a license;

(3) has obtained or attempted to obtain a license through misrepresentation or fraud;

(4) has misappropriated or converted to his own use or improperly withheld monies;

(5) has used fraudulent, coercive, or dishonest

practices or has demonstrated incompetence,

untrustworthiness, or financial irresponsibility;

(6) has been, within the past 3 years, convicted of a felony, unless the individual demonstrates to the Director sufficient rehabilitation to warrant public trust;

(7) has failed to appear without reasonable cause or excuse in response to a subpoena issued by the Director;

(8) has had a license suspended, revoked, or denied in any other state on grounds similar to those stated in this Section; or

(9) has failed to report a felony conviction as required by Section 513a6.

(b) Suspension, revocation, or denial of a license under this Section shall be by written order sent to the licensee or applicant by certified or registered mail at the address specified in the records of the Department. The licensee or applicant may in writing request a hearing within 30 days from the date of mailing. If no written request is made the order shall be final upon the expiration of that 30 day period.

(c) If the licensee or applicant requests a hearing under this Section, the Director shall issue a written notice of hearing sent to the licensee or applicant by certified or registered mail at his address, as specified in the records of the Department, and stating:

(1) the grounds, charges, or conduct that justifies suspension, revocation, or denial under this Section;

(2) the specific time for the hearing, which may not be fewer than 20 nor more than 30 days after the mailing of the notice of hearing; and

(3) a specific place for the hearing, which may be either in the City of Springfield or in the county where the licensee's principal place of business is located.

(d) Upon the suspension or revocation of a license, the licensee or other person having possession or custody of the license shall promptly deliver it to the Director in person or by mail. The Director shall publish all suspensions and revocations after they become final in a manner designed to notify interested insurance companies and other persons.

(e) Any person whose license is revoked or denied under this Section shall be ineligible to apply for any license for 2 years. A suspension under this Section may be for a period of up to 2 years.

(f) In addition to or instead of a denial, suspension, or revocation of a license under this Section, the licensee may be subjected to a civil penalty of up to \$2,000 for each cause for denial, suspension, or revocation. The penalty is enforceable under subsection (5) of Section 403A of this Code. (Source: P.A. 93-32, eff. 7-1-03.)

(215 ILCS 5/513a8) (from Ch. 73, par. 1065.60a8)

Sec. 513a8. Examinations.

(a) The Director may examine any applicant for or holder of a premium finance license.

(b) All persons being examined, as well as their officers and directors, shall provide to the Director convenient and free access, at all reasonable hours at their offices, to all books, records, documents, and other papers relating to the person's insurance and premium financing business affairs. The licensee or its officers, directors, and employees shall facilitate and aid the Director in the examinations as much as

it is in their power to do so.

(c) The Director may designate an examiner or examiners to conduct any examination under this Section. The Director or his designee may administer oaths and examine under oath any individual relative to the business of the person being examined.

(d) The examiners designated by the Director under this Section may make reports to the Director. Any report alleging substantive violations of this Code or the rules and regulations thereunder shall be in writing and be based upon facts obtained by the examiners. The report of examination shall be verified by the examiners.

(e) If a report is made, the Director shall either deliver a duplicate thereof to the licensee being examined or send the duplicate by certified or registered mail to the licensee's address of record. The Director shall afford the licensee an opportunity to request a hearing with reference to the facts and other evidence contained in the report. The licensee may request a hearing within 14 calendar days after he receives the duplicate of the examination report by giving the Director written notice of that request, together with written statement of the licensee's objection to the report. The Director shall, if requested to do so, conduct a hearing in accordance with Sections 402 and 403. The Director shall issue a written order based upon the examination report within 90 days after the report is filed or within 90 days after the hearing, if a hearing is held. If the report is refused or otherwise undeliverable or a hearing is not requested in a timely fashion, the right to a hearing is waived. After the hearing or the expiration of the time period in which a licensee may request a hearing, if the examination reveals that the licensee is operating in violation of any law, this Code or rules and regulations promulgated thereunder, or prior order, the Director in the written order may require the licensee to take any action the Director considers necessary or appropriate in accordance with the report or examination hearing. The order is subject to review under the Administrative Review Law.

(f) Any licensee who violates or aids and abets any violation of a written order issued under this Section shall be guilty of a business offense, and his license may be revoked or suspended under Section 513a7, and he may be fined not less than \$501 nor more than \$5,000.

(Source: P.A. 87-811.)

(215 ILCS 5/513a9) (from Ch. 73, par. 1065.60a9)
Sec. 513a9. Premium finance agreement.

(a) A premium finance agreement must be dated and signed by or on behalf of the named insured, and the printed portion shall be in at least 8-point type. The following items must be set forth on the first page of the accepted finance agreement:

- (1) the total amount of the premiums;
- (2) the amount of the down payment;
- (3) the principal balance (the difference between items (1) and (2));
- (4) the amount of the finance charges expressed in dollars and as an annual percentage rate;
- (5) the balance payable by the insured (sum of items (3) and (4));
- (6) the number of installments, the due dates

thereof, and the amount of each installment expressed in dollars; and

(7) the policy numbers or binder numbers.

(b) The premium finance company is required to furnish full and complete disclosure of the terms and conditions of the premium finance agreement including, but not limited to, the specific insurance coverages financed to the named insured no later than the date that the first premium payment notice is sent to the insured.

(c) As to policies written primarily for personal, family, or household use, the premium finance company must:

(1) deliver or mail the premium check or checks in the amount of the principal balance directly to the insurer or insurers unless the insurer or insurers have given written authority to the premium finance company to deliver the checks to the producer;

(2) issue the premium check or checks payable to the insurer, insurers, or, if the insurer gives written authority to the premium finance company, to the producer; and

(3) properly identify the premium check or checks by policy number or binder number when the premium is paid to the insurer or insurers.

(d) As to all other policies the premium finance company may:

(1) deliver or mail the premium check or checks in the amount of the principal balance directly to the producer; and

(2) issue the premium check or checks payable to the producer.

(e) A premium finance company that pays the financed premium to the producer pursuant to subsection (d) establishes the producer as the agent of the premium finance company for payment of the premium and for receipt of any return premium. (Source: P.A. 89-265, eff. 1-1-96; 90-381, eff. 8-14-97.)

(215 ILCS 5/513a10) (from Ch. 73, par. 1065.60a10)
Sec. 513a10. Maximum service charge.

(a) No service charge shall be made for financing premiums other than as permitted by this Article.

(b) The service charge is to be computed on the principal balance from the effective date of the insurance coverage for which the premiums are being advanced to and including the date when the final installment of the premium finance agreement is payable.

(c) The service charge shall be a maximum of \$10 per \$100 per year plus an allowable charge as follows:

Allowable Charge Per Finance Agreement	Amount of Principal Balance
\$20	\$0 to \$499
\$30	\$500 to \$999
\$40	\$1000 or more

(d) The service charge or any other charge made by the licensee does not have to be refunded upon cancellation or prepayment. The allowable charge is considered to be part of the service charge.

(e) A premium finance agreement may provide for a delinquency charge of not less than \$1 nor more than 5% of any installment in default for more than 5 days.

(f) Any other charges shall be disclosed in the premium

finance agreement.
(Source: P.A. 87-811.)

(215 ILCS 5/513a11) (from Ch. 73, par. 1065.60a11)
Sec. 513a11. Cancellation requirements upon default.

(a) When a premium finance agreement contains a power of attorney enabling the premium finance company to cancel any insurance contract or contracts listed in the premium finance agreement, the insurance contract or contracts shall not be cancelled by the premium finance company unless the request for cancellation is effectuated under this Section.

(b) Not less than 10 days written notice shall be mailed to the named insured of the intent of the premium finance company to cancel the insurance contract unless the default is cured within the 10 day period.

(c) After expiration of the 10 day period, the premium finance company may request, in the name of the named insured, cancellation of the insurance contract or contracts by mailing or hand delivering to the insurer a request for cancellation, and the insurance contract shall be cancelled as if the request for cancellation had been submitted by the named insured, but without requiring the return of the insurance contract or contracts. The premium finance company shall also mail a copy of the request for cancellation to the named insured at his last known address.

(d) All statutory, regulatory, and contractual restrictions providing that the insurance contract may not be cancelled unless notice is given to a governmental agency, mortgagee, or other third party shall apply where cancellation is effected under provisions of this Section. The insurer shall give the notice to any governmental agency, mortgagee, or other third party on or before the fifth business day after it receives the notice of cancellation from the premium finance company. For purposes of this Section, any governmental agency, mortgagee, or other third party may opt to receive notices electronically.

(e) In the event that the collection of return premiums for the account of the named insured results in a surplus over the amount due from the named insured, the premium finance company shall refund the excess to the named insured; however, no refund is required if it amounts to less than \$5.

(f) All cancellation provisions required of the premium finance company and insurer are applicable to any policy to which Section 143.11 applies.
(Source: P.A. 93-713, eff. 1-1-05.)

(215 ILCS 5/513a12) (from Ch. 73, par. 1065.60a12)
Sec. 513a12. Books and records.

(a) Until payment in full and 3 years thereafter every licensee shall maintain each premium finance agreement or duplicate originals thereof and all original documents relating thereto (except those papers returned to the insured) so as to be readily available for examination by the Director.

(b) Every licensee shall maintain a register, ledger, or combination of records for each premium finance agreement that can readily show:

- (1) the date of acquisition;
- (2) the name of the insured;
- (3) the identifying number;

- (4) the principal balance;
 - (5) the amount of all charges assessed;
 - (6) the balance; and
 - (7) a distribution of proceeds showing the dates, amounts, and names of the persons to whom any part of the proceeds were distributed.
- (Source: P.A. 87-811.)