

South Carolina Department of Insurance

Division of Administration
Office of Special Services
Capitol Center, 1201 Main St., Suite 1000
Columbia, South Carolina 29201

MARK SANFORD
Governor

SCOTT RICHARDSON
Director of Insurance

Mailing Address:
P.O. Box 100105, Columbia, S.C. 29202-3105
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SOUTH CAROLINA PREMIUM FINANCE COMPANY APPLICATION

LICENSE FEE: NONREFUNDABLE
\$500.00

RETURN APPLICATION TO:

S.C. DEPARTMENT OF INSURANCE, SPECIAL SERVICES DIVISION, PO BOX 100105, COLUMBIA, SC 29202-3105

COMPANY NAME: _____

STREET ADDRESS: _____

TRADE NAME (IF ANY) _____

MAILING ADDRESS: _____

CITY _____ STATE _____ ZIP CODE _____

FEDERAL TAX ID# _____ PHONE # _____ FAX# _____

DATE OF INCORPORATION _____ STATE OF INCORPORATION _____

APPLICANT IS: INDIVIDUAL PROP. PARTNERSHIP CORPORATION LIMITED LIABILITY

I. ATTACH THE FOLLOWING APPLICABLE ITEMS. (MARK N/A IN THE SPACE PROVIDED IF NOT APPLICABLE)

_____ Certified copy of the Board of Directors meeting that authorized this application to be made.

_____ Certified copy of Articles of Incorporation.

_____ Certified copy of Corporate By-Laws

_____ Certified copy of the Certificate of Authority to transact business in the State of South Carolina, issued by the South Carolina Secretary of State. Telephone # 803-734-2158
(Foreign and Domestic)

_____ Certified copy of current partnership agreement. **(Partnerships only)**

_____ Surety Bond or Certificate of Deposit made to the South Carolina Department of Insurance \$50,000

_____ A current audited financial statement of the premium finance company, proposed by a certified public accountant or by a qualified independent accountant who is engaged in the public practice of accounting (financial statement must disclosed net worth of \$20,000)

- _____ Forms used in operation (must be filed in duplicate)
- a. Insurance premium service agreement
 - b. Notice of over due payment (Intent to cancel)
 - c. Payment Book
 - d. Notice to insurer that the policy is financed
 - e. Notice to Request cancellation

II. ADDRESS AT WHICH APPLICANT WILL CONDUCT BUSINESS UNDER LICENSE, AND WHERE DIFFERENT, THE MAILING ADDRESS:

(a) ADDRESS OF PRINCIPAL PLACE OF BUSINESS WITHIN THE STATE:

(b) ADDRESS AT WHICH ALL BOOKS, RECORDS, ACCOUNTS AND DOCUMENTS RELATING TO BUSINESS IN THIS STATE WILL BE KEPT:

(c) IF APPLICANT IS FOREIGN, PROPRIETORSHIP, PARTNERSHIP OR CORPORATION, ADDRESS OF PRINCIPAL PLACE OF BUSINESS:

NAME AND ADDRESS OF AGENT FOR SERVICE OF PROCESS:

III GENERAL INTERROGATORIES:

A. HAS THE APPLICANT, ANY PARTNER, DIRECTOR, OFFICER, OFFICE MANAGER, FIELD REPRESENTATIVE OR STOCKHOLDER OWNING TEN (10) PERCENT OR MORE OF APPLICANT'S OUTSTANDING CAPITAL STOCK EVER:

1. Previously applied in this State for a license to engage in the business of insurance premium financing? _____
2. received a rejection, revocation or suspension of license under the laws of this or any other State governing insurance premium finance, or other consumer financing? _____
3. received a rejection or suspension of license, been convicted or entered a plea of guilty or nolo contendere, with respect to any law or regulation relating to the business of insurance? _____
4. been placed in voluntary or involuntary bankruptcy, receivership, trusteeship, or conservatorship?

5. hold a license to engage in business of insurance premium financing or any similar or related business in any state, district or territory of the United States? _____
6. directly or indirectly under common ownership, control or management or otherwise affiliated or associated with any insurer, or any person, firm or corporation having or exercising control of and insurer? _____

What business, other than insurance premium financing, will be conducted by the application?

What entities own at least ten (10) percent of applicant's outstanding capital stock?

Name & Address	Shares	% Ownership	Par Value / Share	Dividend Calculated
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For what agent or agency will the applicant finance insurance premium? _____

Name: _____ Address: _____

THIS APPLICATION IS INTENDED AS AN INDUCEMENT TO THE ISSUANCE OF THE LICENSE APPLIED FOR, AND BY SIGNATURE HEREOF, THE APPLICANT SWEARS (OR AFFIRMS), SUBJECT TO THE PAINS AND PENALTIES OF PERJURY, THAT ALL ANSWER, STATEMENTS AND SUPPLEMENTARY MATERIAL ARE ACCURATE, COMPLETE AND TRUE AND AGREES THAT ANY LICENSE SO ISSUED SHALL BE SO

PRESIDENT OR INDIVIDUAL

PARTNER

(CORPORATE SEAL)

ATTEST: _____
SECRETARY

SWORN AND SUBSCRIBED BEFORE ME ON THIS _____ DAY OF _____ • 20____

MY COMMISSION EXPIRES

NOTARY PUBLIC

INSURANCE PREMIUM SERVICE COMPANIES

SECTION 38-39-10. Application of chapter.

This chapter does not apply to:

- (a) an insurer authorized to do business in this State;
- (b) a banking institution, savings and loan association, cooperative credit union, consumer finance company provided for in Sections 34-29-10 to 34-29-260 authorized to do business in this State, or a supervised lender provided for in Title 37 authorized to do business in this State;
- (c) the inclusion of a charge for insurance in connection with an installment sale of goods or services;
- (d) the advancing of premiums by insurance agents and producers of record under Article 3 of Chapter 43 of this title.

SECTION 38-39-20. License required; fee; interrogatories.

- (a) No person may engage in the business of servicing insurance premiums in this State without first obtaining a license from the director or his designee. Any person who engages in the business of servicing insurance premiums in this State without obtaining a license is guilty of a misdemeanor. Each transaction constitutes a separate offense.
- (b) The annual license fee is five hundred dollars payable by March first to the department, to be deposited by the department in the state treasury.
- (c) The person to whom the license is issued shall file sworn answers, subject to the penalties of perjury, to any interrogatories the director or his designee may require. The director or his designee has authority to require the applicant to disclose the identity of all stockholders, partners, officers, and employees. He may refuse to issue or renew a license in the name of any firm, partnership, or corporation if he is not satisfied that any officer, employee, stockholder, or partner of it who may materially influence the applicant's conduct meets the standards of this chapter.

SECTION 38-39-30. Investigation of applicant; issuance of license; bond.

- (a) Upon the filing of an application and the payment of the license fee the director or his designee shall make an investigation of the applicant and shall issue a license if the applicant is qualified. If the director or his designee does not find the applicant qualified, he shall, within thirty days after he has received the application, at the request of the applicant, give the applicant a full hearing.
- (b) The director or his designee shall issue a license when he is satisfied that the person to be licensed:
 - (1) is competent and trustworthy and intends to act in good faith in the capacity involved by the license applied for;
 - (2) has a good business reputation and has had experience, training, or education so as to be qualified in the business for which the license is applied for;
 - (3) if a corporation, is a corporation incorporated under the laws of this State or a foreign corporation authorized to transact business in this State;
 - (4) has on deposit with the department a surety bond of fifty thousand dollars or has proven financial responsibility by depositing with the department acceptable securities of fifty thousand dollars. The bond or the deposit of securities must be held for the reimbursement of parties damaged through the acts, neglects, defaults, or insolvency of the premium service company;
 - (5) if directly or indirectly owned or controlled by, or affiliated with, an insurer, will not use the license to restrain trade or to secure an unfair competitive advantage or to falsify the insurer's financial condition or to render deceptive or misleading a financial statement of the insurer or, in any other way, to aid or assist the insurer in evading insurance laws or regulations;
 - (6) if a foreign corporation is regulated and examined by the appropriate department in its state of domicile.
- (c) Each license is for an indefinite term, unless sooner revoked or suspended, if the annual license fee is paid by March first.

SECTION 38-39-40. Revocation or suspension of, or refusal to issue, license; monetary penalties.

(a) The director or his designee may revoke or suspend the license of an insurance premium service company after investigation if it appears to the director or his designee that:

- (1) The license issued to the company was obtained by fraud;
- (2) There was any misrepresentation in the application for the license;
- (3) The holder of the license has otherwise shown himself untrustworthy or incompetent to act as a premium service company;
- (4) The company has violated this chapter; or
- (5) The company has been rebating directly or indirectly part of the service charge to an insurance agent or insurance broker or to an employee of an insurance agent or insurance broker or to any other person as an inducement to the financing of an insurance policy with the premium service company.

(b) Before the director or his designee revokes, suspends, or refuses to renew the license of a premium service company, he shall give the person an opportunity to be fully heard and to introduce evidence in his behalf. In lieu of revoking or suspending the license for any of the causes enumerated in this section, after a hearing, the director or his designee may subject the company to a monetary penalty as provided for in Section 38-2-10 for each offense when in his judgment he finds that the public interest would not be harmed by the continued operation of the company. The penalty must be paid to the department and must be deposited by the department in the state treasury. Any action by the director or his designee pursuant to this section may be appealed by the premium service company before the Administrative Law Judge Division.

SECTION 38-39-50. Records must be kept by insurance premium service companies.

(a) Every licensed premium service company shall maintain records of its premium service transactions and the records must be open to examination and investigation by the director or his designee. The director or his designee may at any time require the company to bring any records he directs to his office for examination.

(b) Every licensed premium service company shall preserve its records, including cards used in a card system, for at least three years after making the final entry in respect to any premium service agreement. The preservation of records in photographic form constitutes compliance with this requirement.

SECTION 38-39-60. Regulations.

The department, after a public hearing, has authority to make and enforce any regulations necessary to carry out this chapter, but these regulations may not be contrary to nor inconsistent with this chapter.

SECTION 38-39-70. Premium service agreements.

(a) A premium service agreement:

- (1) Must be at least eight-point type for the printed portion;
- (2) Must be dated and signed by the insured;
- (3) Shall contain the name and place of business of the insurance agent or insurance broker negotiating the related insurance contract, the name and residence or the place of business of the insured as specified, the name and place of business of the premium service company to which payments are to be made, a description of the insurance contracts involved, and the amount of the premium; and
- (4) Shall set forth the following, where applicable:
 - (A) The total amount of the premiums;
 - (B) The amount of the down payment;
 - (C) The principal balance [the difference between subitems (A) and (B)];
 - (D) The amount of the service charge;
 - (E) The balance payable by the insured [sum of subitems (C) and (D)]; and
 - (F) The number of installments required, the amount of each installment expressed in dollars, and the due date or period thereof.

(b) The subitems set out in item (4) of subsection (a) need not be stated in the sequence or order in which they appear, and additional subitems may be included to explain the computations made in determining the amount to be paid by the insured.

(c) The minimum down payment for a premium service insurance contract may not be less than ten percent.

SECTION 38-39-80. Premium service companies may not write insurance or sell other services or commodities; service charges.

- (a) A premium service company may not write any insurance or sell any other service or commodity in connection with any premium service contract.
- (b) A premium service company may not charge, contract for, receive, or collect a service charge other than as permitted by this chapter.
- (c) The service charge must be computed on the balance of the premiums due (after subtracting the down payment made by the insured in accordance with the premium service agreement) 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 service agreement is payable.
- (d) An initial charge of fifteen dollars per premium service contract is permitted which may not be refunded upon cancellation or prepayment.
- (e) The service charge is at the rate of one percent per month computed on the remainder of the outstanding balance. However, in the event of cancellation by the borrower prior to maturity of the contract, the unearned service charge must be refunded on a short rate basis as determined by the department. With respect to the service charge for a premium service agreement which is for other than personal, family, or household purposes, the parties may contract for the payment by the debtor of a service charge at any rate, but no rate charged hereunder may be unconscionable. "Unconscionable" is defined as a rate substantially exceeding the usual and customary charge for financing insurance premiums.
- (f) No premium service company may induce an insured to become obligated under more than one premium service agreement for the purpose of obtaining more than one nonrefundable fifteen-dollar charge, and no premium service company may intentionally cancel an insurance contract for the purpose of obtaining an additional fifteen-dollar nonrefundable charge on a new premium service agreement accepted within sixty days of the cancellation on the prior agreement.
- (g) A premium service agreement may provide for the payment by the insured of a delinquency charge on each installment in default for a period of not less than five days of one dollar to a maximum of five percent of the installment; however, if the loan is primarily for personal family and household purposes the maximum amount of the delinquency charge may not exceed five dollars. Only one delinquency charge may be collected on an installment regardless of the period during which it remains in default.

SECTION 38-39-90. Cancellation of insurance contracts by premium service company.

- (a) When a premium service agreement contains a power of attorney enabling the company to cancel any insurance contract listed in the agreement, the insurance contract may not be canceled by the premium service company unless the cancellation is effectuated in accordance with this section.
- (b) The premium service company shall deliver the insured at least ten days' written notice of its intent to cancel the insurance contract unless the default is cured within the ten-day period.
- (c) Not less than five days after the expiration of the notice, the premium service company may thereafter request in the name of the insured cancellation of the insurance contract by delivering to the insurer a notice of cancellation. The insurance contract must be canceled as if the notice of cancellation had been submitted by the insured himself, but without requiring the return of the insurance contract. The premium service company shall also deliver a notice of cancellation to the insured at his last address as set forth in its records by the date the notice of cancellation is delivered to the insurer. It is sufficient to give notice either by delivering it to the person or by depositing it in the United States mail, postage prepaid, addressed to the last address of the person. Notice delivered in accordance with the provisions of this statute shall be sufficient proof of delivery.
- (d) All statutory, regulatory, and contractual restrictions providing that the insurance contract may not be canceled unless notice is given to a governmental agency, mortgagee, or other third party apply where cancellation is effected under this section. The insurer shall give the prescribed notice in behalf of itself or the insured to any governmental agency, mortgagee, or other third party by the second business day after the day it receives the notice of cancellation from the premium service company and shall determine the effective date of cancellation taking into consideration the number of days' notice required to complete the cancellation.

(e) Whenever an insurance contract is canceled, the insurer shall return whatever gross unearned premiums are due under the insurance contract to the premium service company which financed the premium for the account of the insured. The gross unearned premiums due on personal lines insurance contracts financed by premium service companies must be computed on a pro rata basis.

(f) If the crediting of return premiums to the account of the insured results in a surplus over the amount due from the insured, the premium service company shall hold the surplus in a fiduciary capacity and promptly refund the excess to the insured. No refund is required if it amounts to less than three dollars.

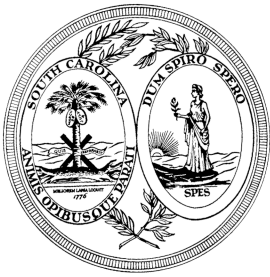
(g) Cancellations of insurance contracts by premium service companies must be effected exclusively by the forms, method, and timing set forth in this chapter.

SECTION 38-39-100. Validity of premium service agreement as secured transaction.

Filing of the premium service agreement is not necessary to perfect the validity of the agreement as a secured transaction as against creditors, subsequent purchasers, pledgees, encumbrances, successors, or assigns.

SECTION 38-39-110. Approval of forms and rate charges.

The director or his designee shall approve all forms and rate charges of premium service companies in accordance with the standards prescribed in this chapter.



South Carolina Department of Insurance

Capitol Center, 1201 Main St., Suite 1000
Columbia, South Carolina 29201
Post Office Box 100105
Columbia, South Carolina 29202-3105

MARK SANFORD
Governor

PREMIUM SERVICE COMPANY BOND

WITNESSETH:

That _____ as principal, and

_____, as surety, are firmly bound unto the Director of Insurance of the State of South Carolina in the penal sum of fifty thousand (\$50,000) dollars, lawful money of the United States, for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally.

The condition of this bond is such that if the said principal shall well and truly do and perform in accordance with all of the provisions and requirements of **Chapter 39 of Title 38, 1976 Code of Laws of South Carolina**, providing for the licensing and regulation of Insurance Premium Service Companies, this bond shall be void and of no effect, otherwise, the same shall be of full force and effect.

Provided, however, that the surety's liability, as to the future only, may be terminated hereunder:

- (a) by notice in writing by the surety to the Director of Insurance of the State of South Carolina stating when, not less than forty (40) days thereafter, the surety's future liability shall terminate, and upon written authorization from the Director of Insurance of the State of South Carolina to said surety; or,
- (b) upon written authorization from the Director of Insurance of the State of South Carolina to said surety.

IN WITNESS WHEREOF, we, the said parties have hereunto set our hands and seal this

_____ day of _____, 20_____

ATTEST: _____

Principal

By _____

Title _____

Surety _____

ATTEST: _____

By _____

Attorney-in-Fact

Countersigned By:

Licensed, Resident South Carolina Agent

SSN: _____

STATE OF _____

COUNTY OF _____

Personally appeared before me _____ (witness)
(Witnesses to Surety)
who, being duly sworn, says that she/he saw the within-named principal by _____
(Surety)
its (officer) _____ sign, seal, and as its act or deed deliver the
(Officer of Surety)
within-written bond for the uses and purposes therein mentioned, and she/he witnessed the
execution of the same.

SWORN to and subscribed before me this _____ day of _____, 20_____

Signature of above Witness to Surety

Notary Public

STATE OF _____

COUNTY OF _____

Personally appeared before me _____ (witness)
(Witnesses to Principal)
who, being duly sworn, says that she/he saw the within-named principal by _____
(Principal)
_____ its (officer) _____ sign, seal, and as its
(Officer of Principal)
act or deed deliver the within-written bond for the uses and purposes therein mentioned, and that
she/he witnessed the execution of the same.

SWORN to and subscribed before me this _____ day of _____, 20_____

Notary Public

Signature of above Witness of Principal