

GENERAL ASSEMBLY OF NORTH CAROLINA  
1995 SESSION

CHAPTER 121  
HOUSE BILL 749

AN ACT TO AMEND THE PROCEDURE FOR SENDING INSURANCE AGENTS  
AND COMPANIES NOTICES AND REQUESTS FOR CANCELLATION OF  
INSURANCE CONTRACTS BY INSURANCE PREMIUM FINANCE  
COMPANIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-35-85 reads as rewritten:

**"§ 58-35-85. Procedure for cancellation of insurance contract upon default; return of unearned premiums; collection of cash surrender value.**

When an insurance premium finance agreement contains a power of attorney or other authority enabling the insurance premium finance company to cancel any insurance contract or contracts listed in the agreement, the insurance contract or contracts shall not be cancelled unless ~~such~~the cancellation is effectuated in accordance with the following provisions:

- (1) Not less than 10 days' written notice be mailed to the last known address of the insured or insureds shown on the insurance premium finance agreement of the intent of the insurance premium finance company to cancel his or their insurance contract or contracts unless the defaulted installment payment is received. A notice thereof shall also be ~~mailed~~sent to the insurance agent.
- (2) After expiration of ~~such~~the period, the insurance premium finance company shall ~~mail~~send the insurer a request for ~~cancellation, including a copy of the power of attorney, cancellation~~ and shall mail a copy of the request for cancellation to the insured at his last known address as shown on the insurance premium finance agreement. The premium finance company shall include a copy of the power of attorney with the request for cancellation if the insurer has not already received a copy of the power of attorney with the application.
- (3) Upon receipt of a copy of ~~such~~the request for cancellation notice by the insurer, the insurance contract shall be cancelled with the same force and effect as if the aforesaid request for cancellation had been submitted by the insured himself, without requiring the return of the insurance contract or contracts.
- (4) All statutory, regulatory, and contractual restrictions providing that the insured may not cancel his insurance contract unless he first satisfies ~~such~~the restrictions by giving a prescribed notice to a governmental

agency, the insurance carrier, an individual, or a person designated to receive ~~such~~the notice for said governmental agency, insurance carrier, or individual shall apply where cancellation is effected under the provisions of this section.

- (5) Whenever an insurance contract is cancelled in accordance with this section, the insurer shall promptly return whatever gross unearned premiums are due under the contract to the insurance premium finance company effecting the cancellation for the benefit of the insured or insureds. Whenever the return premium is in excess of the amount due the insurance premium finance company by the insured under the agreement, ~~such~~the excess shall be remitted promptly to the order of the insured, subject to the minimum service charge provided for in this Article.
- (6) The provisions of this section relating to request for cancellation by the insurance premium finance company of an insurance contract and the return by an insurer of unearned premiums to the insurance premium finance company, also apply to the surrender by the insurance premium finance company of an insurance contract providing life insurance and the payment by the insurer of the cash value of the contract to the insurance premium finance company, except that the insurer may require the surrender of the insurance contract."

Sec. 2. This act becomes effective October 1, 1995.

In the General Assembly read three times and ratified this the 29th day of May, 1995.

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Dennis A. Wicker  
President of the Senate

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Harold J. Brubaker  
Speaker of the House of Representatives