

40-2612. Cancellation of insurance contracts, when; notice; duty of insurer; refund. (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 agreement, the insurance contract or contracts shall not be canceled by the premium finance company unless such cancellation is effectuated in accordance with this section.

(b) In the event the insured fails to make the payments at the time and in the amount provided in the premium finance agreement, the premium finance company shall mail to the insured a written notice of the intent of the premium finance company to cancel the insurance contract because of the default in payments by the insured unless the default in payments is cured within a time certain stated in the notice, which time shall not be less than 10 days. A copy of such notice shall also be sent to the insurance agent or insurance broker indicated on the premium finance agreements.

(c) After expiration of such 10 day period, the premium finance company may thereafter request in the name of the insured, cancellation of such insurance contract or contracts by mailing to the insurer a notice of cancellation, and the insurance contract shall be canceled as if such notice of cancellation had been submitted by the insured, but without requiring the return of the insurance contract or contracts. The premium finance company shall also mail a notice of cancellation to the insured at the insured's last known address and to the insurance agent or insurance broker indicated on the premium finance agreement.

(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 shall apply where cancellation is effected under the provisions of 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 on or before the second business day after the day it receives the notice of cancellation from the premium finance company and shall determine the effective date of cancellation taking into consideration the number of days notice required to complete the cancellation.

(e) Whenever a financed insurance contract is canceled, the insurer shall, within 20 days of the effective date of cancellation, return whatever gross unearned premiums are due under the insurance contract to the premium finance company, either directly or via the agent or agency writing the insurance, where an assignment of such funds is included in the premium finance agreement for the account of the insured or insureds.

(f) In the event that the crediting of return premiums to the account of the insured results in a surplus over the amount due from the insured, the premium finance company shall refund such excess to the insured via the insured's insurance agent or agency, but no such refund shall be required if it amounts to less than \$1.

History: L. 1968, ch. 287, § 12; L. 1991, ch. 136, § 5; July 1.