

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 574
Insurance Committee Substitute Adopted 4/8/93

Short Title: Insurance Premium Financing.

(Public)

Sponsors:

Referred to:

March 25, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE STATUTES RELATING TO INSURANCE PREMIUM
3 FINANCING.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 58-35-80(b) reads as rewritten:

6 "(b) The amount of any such refund credit shall represent at least as great
7 proportion of the service charge, if any, as the sum of the periodic balances after the
8 month in which prepayment is made bears to the sum of all periodic balances under the
9 schedule of installments in the agreement. Where the amount of the refund credit for
10 anticipation of payment is less than ~~one dollar (\$1.00)~~ three dollars (\$3.00), no refund
11 need be ~~made~~ made, unless the refund is requested within 90 days after the refund is
12 due. Provided, however, this provision shall not affect the duty of any insurer to report
13 and deliver these amounts to the Escheat Fund in the manner provided in G.S. 116B-
14 29(b)(3)."

15 Sec. 2. G.S. 58-35-85 reads as rewritten:

16 "**§ 58-35-85. Procedure for cancellation of insurance contract upon default; return**
17 **of unearned premiums; collection of cash surrender value.**

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

- 1 (1) Not less than 10 days' written notice be mailed to the last known
2 address of the insured or insureds shown on the insurance premium
3 finance agreement of the intent of the insurance premium finance
4 company to cancel his or their insurance contract or contracts unless
5 the defaulted installment payment is received. A notice thereof shall
6 also be mailed to the insurance agent.
- 7 (2) After expiration of such period, the insurance premium finance
8 company shall mail the insurer a request for cancellation, including a
9 copy of the power of attorney, and shall mail a copy of the request for
10 cancellation to the insured at his last known address as shown on the
11 insurance premium finance agreement.
- 12 (3) Upon receipt of a copy of such request for cancellation notice by the
13 insurer, the insurance contract shall be cancelled with the same force
14 and effect as if the aforesaid request for cancellation had been
15 submitted by the insured himself, without requiring the return of the
16 insurance contract or contracts.
- 17 (4) All statutory, regulatory, and contractual restrictions providing that the
18 insured may not cancel his insurance contract unless he first satisfies
19 such restrictions by giving a prescribed notice to a governmental
20 agency, the insurance carrier, an individual, or a person designated to
21 receive such notice for said governmental agency, insurance carrier, or
22 individual shall apply where cancellation is effected under the
23 provisions of this section.
- 24 (5) Whenever an insurance contract is cancelled in accordance with this
25 section, the insurer shall promptly return whatever gross unearned
26 premiums are due under the contract to the insurance premium finance
27 company effecting the cancellation for the benefit of the insured or
28 insureds. Whenever the return premium is in excess of the amount due
29 the insurance premium finance company by the insured under the
30 agreement, such excess shall be remitted promptly to the order of the
31 insured, subject to the minimum service charge provided for in this
32 Article. Where the amount of the refund credit for anticipation of
33 payment is less than three dollars (\$3.00), no refund need be made,
34 unless the refund is requested within 90 days after the refund is due.
35 Provided, however, this provision shall not affect the duty of any
36 insurer to report and deliver these amounts to the Escheat Fund in the
37 manner provided in G.S. 116B-29(b)(3).
- 38 (6) The provisions of this section relating to request for cancellation by the
39 insurance premium finance company of an insurance contract and the
40 return by an insurer of unearned premiums to the insurance premium
41 finance company, also apply to the surrender by the insurance
42 premium finance company of an insurance contract providing life
43 insurance and the payment by the insurer of the cash value of the

1 contract to the insurance premium finance company, except that the
2 insurer may require the surrender of the insurance contract."
3 Sec. 3. This act becomes effective October 1, 1993.