

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 749
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Short Title: Cancellation of Insurance Contracts.

(Public)

Sponsors: Representatives Cocklereece; Barbee, Brawley, Dockham, and Lemmond.

Referred to: Insurance.

April 4, 1995

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE PROCEDURE FOR SENDING INSURANCE AGENTS
3 AND COMPANIES NOTICES AND REQUESTS FOR CANCELLATION OF
4 INSURANCE CONTRACTS BY INSURANCE PREMIUM FINANCE
5 COMPANIES.

6 The General Assembly of North Carolina enacts:

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

8 **"§ 58-35-85. Procedure for cancellation of insurance contract upon default; return**
9 **of unearned premiums; collection of cash surrender value.**

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

- 15 (1) Not less than 10 days' written notice be mailed to the last known address
16 of the insured or insureds shown on the insurance premium finance
17 agreement of the intent of the insurance premium finance company to
18 cancel his or their insurance contract or contracts unless the defaulted

1 installment payment is received. A notice thereof shall also be mailed
2 sent to the insurance agent.

3 (2) After expiration of ~~such~~the period, the insurance premium finance
4 company shall ~~mail~~send the insurer a request for ~~cancellation, including a~~
5 ~~copy of the power of attorney, cancellation~~ and shall mail a copy of the
6 request for cancellation to the insured at his last known address as
7 shown on the insurance premium finance agreement. The premium
8 finance company shall include a copy of the power of attorney with the
9 request for cancellation if the insurer has not already received a copy of
10 the power of attorney with the application.

11 (3) Upon receipt of a copy of ~~such~~the request for cancellation notice by the
12 insurer, the insurance contract shall be cancelled with the same force
13 and effect as if the aforesaid request for cancellation had been submitted
14 by the insured himself, without requiring the return of the insurance
15 contract or contracts.

16 (4) All statutory, regulatory, and contractual restrictions providing that the
17 insured may not cancel his insurance contract unless he first satisfies
18 ~~such~~the restrictions by giving a prescribed notice to a governmental
19 agency, the insurance carrier, an individual, or a person designated to
20 receive ~~such~~the notice for said governmental agency, insurance carrier,
21 or individual shall apply where cancellation is effected under the
22 provisions of this section.

23 (5) Whenever an insurance contract is cancelled in accordance with this
24 section, the insurer shall promptly return whatever gross unearned
25 premiums are due under the contract to the insurance premium finance
26 company effecting the cancellation for the benefit of the insured or
27 insureds. Whenever the return premium is in excess of the amount due
28 the insurance premium finance company by the insured under the
29 agreement, ~~such~~the excess shall be remitted promptly to the order of the
30 insured, subject to the minimum service charge provided for in this
31 Article.

32 (6) The provisions of this section relating to request for cancellation by the
33 insurance premium finance company of an insurance contract and the
34 return by an insurer of unearned premiums to the insurance premium
35 finance company, also apply to the surrender by the insurance premium
36 finance company of an insurance contract providing life insurance and
37 the payment by the insurer of the cash value of the contract to the
38 insurance premium finance company, except that the insurer may
39 require the surrender of the insurance contract."

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