

ADVISORY RULING #48
AUGUST 28, 1980

(Revised - See AR #71)

August 28, 1980

Dear

Harry Giddinge has brought to my attention your exchange of correspondence concerning the interpretation of 9-A M.R.S.A., Sections 5-110 and 5-111 as it pertains to Insurance Premium Finance Companies.

Section 5-110 requires a notice of right to cure after the consumer has been in default at least 10 days. Subsection 3 describes the content of the notice. A notice subject to the Insurance Premium Finance Company Act must advise the consumer "that each policy or contract identified in the notice may be cancelled."

Section 5-111 establishes the minimum time in which a cure must be given to restore the consumer's rights. This period is normally 20 days. With respect to Insurance Premium notices, however, the notice of, or request for, cancellation may not be given until 10 days after the notice of right to cure is given. The notice of cancellation is described in subsection 4. It is a separate notice from that described in Section 5-110(3) (right-to-cure notice). Within 2 business days after receipt, the insurer must then give any notice of cancellation required by contract, policy or law. It is the Bureau's understanding that only the insurer can actually cancel the policy. Therefore, a consumer has 10 days to cure an insurance premium loan prior to the initiation of cancellation procedures after the notice of right to cure is sent.

Your proposed procedure and notice of right to cure is defective in that: (1) you must send two notices, one to issue a right to cure (a period of at least 10 days) and a notice of, or request for, cancellation to insurer and insured; (2) your notice gives the impression that the loan company will cancel when in reality the insurer must follow contractual procedures to cancel.

The following example may illustrate the procedure:

January 1	-	payment due
January 11	-	notice of right to cure issued
January 21	-	notice or request for cancellation issued by Insurance Premium Finance Company.
January 23	-	insurer begins cancellation procedures/notices required by contract, policy or law.

Please note that Subsection 1 of Section 5-110 was amended by P.L. 1979, c. 417 to clarify when the right-to-cure notice is "given." These rules may result in a delay in the dates set forth in the above example.

I hope this clarifies the issues that have been raised. The Bureau will require compliance with this interpretation prior to issuance of a license pursuant to 9 M.R.S.A., §4051.

Sincerely,

/s/ Barbara R. Alexander

Barbara R. Alexander
Superintendent

BA:as