§ 576. Cancellation of insurance contract upon default. 1. When a premium finance agreement contains a power of attorney or other authority enabling the premium finance agency to cancel any insurance contract or contracts listed in the agreement, the insurance contract or contracts shall not be cancelled unless such cancellation is effectuated in accordance with the following provisions:

(a) Not less than ten days written notice shall be mailed to the insured at his last known address as shown on the records of the premium finance agency, of the intent of the premium finance agency to cancel the insurance contract unless the default is cured within such ten day period and that at least three days for mailing such notice is added to the ten day notice. A copy of the notice of intent to cancel shall also be mailed to the insurance agent or broker.

(b) Service of the notice of intent to cancel or notice of cancellation by mail shall be effective provided that the notices are mailed to the insured's last known address as shown on the records of the premium finance agency. The records of the premium finance agency shall be presumptive evidence as to the correctness of such address.

(c) If the insurance contract or contracts provide motor vehicle liability insurance, every such notice of cancellation shall include in type or print, of which the face shall not be smaller than twelve point, a statement that proof of financial security is required to be maintained continuously throughout the registration period and a notice prescribed by the commissioner of motor vehicles indicating the punitive effects of failure to maintain continuous proof of financial security and actions which may be taken by the insured to avoid punitive effects.

(d) After the notice in paragraph (a) above has expired, the premium finance agency may thereafter, in the name of the insured, cancel such insurance contract by mailing to the insurer a notice of cancellation stating when thereafter the policy shall be cancelled, and the insurance contract shall be cancelled as if such notice of cancellation had been submitted by the insured himself, but without requiring the return of the insurance contract. A copy of the notice of cancellation shall also be mailed to the insured.

(e) All statutory, regulatory and contractual restrictions providing that the insured may not cancel his insurance contract unless he or the insurer first satisfies such restrictions by giving a prescribed notice

to a governmental agency, the insurance carrier or an individual or a person designated to receive such notice for said governmental agency, insurance carrier or individual, shall apply where cancellation is effected under the provisions of this section. The insurer shall in accordance with said prescribed notice where it is required to give such notice in behalf of itself or the insured give notice to such governmental agency, person or individual and it shall determine and calculate the effective date of cancellation from the day it receives the copy of the notice of cancellation from the premium finance agency; provided (1) where the aforementioned prescribed notice requires that more than ten days' notice be given, the prescribed time for such notice shall control as to the effective date of cancellation, and (2) where less than ten days' notice is required by the aforementioned prescribed notice the effective date of cancellation shall not be prior to the date contained in the copy of the cancellation notice sent by the premium finance agency.

Notwithstanding that certain provisions of section ninety-three-c of the vehicle and traffic law as added by chapter six hundred fifty-five of the laws of nineteen hundred fifty-six and its successor statute, section three hundred thirteen of the vehicle and traffic law, as enacted by chapter seven hundred seventy-five of the laws of nineteen hundred fifty-nine are consistent with certain of the provisions of this article, those sections shall not be applicable to concellation of insurance by a premium finance agency under the provisions of this article.

(f) The insurer or insurers within a reasonable time not to exceed sixty days after the effective date of cancellation, shall return whatever gross unearned premiums are due under the insurance contract or contracts on a pro rata basis to the premium finance agency for the benefit of the insured or insureds. However, upon such cancellation the insurer or insurers shall be entitled to retain a minimum earned premium on the policy of ten percent of the gross premium or sixty dollars, whichever is greater.

(g) Upon the cancellation of motor vehicle liability insurance by a premium finance agency, unless a notice of such cancellation is not required by the vehicle and traffic law or by the regulations of the

commissioner of motor vehicles, a notice of such cancellation under the provisions of this article, shall be filed by the insurer or insurers with the commissioner of motor vehicles not later than thirty days following the effective date of such cancellation where such a filing is required pursuant to section ninety-three-c of the vehicle and traffic law, as added by chapter six hundred fifty-five of the laws of nineteen hundred fifty-six or its successor statute, section three hundred thirteen of the vehicle and traffic law as enacted by chapter seven hundred seventy-five of the laws of nineteen hundred fifty-nine.

2. The provisions of subdivision one relating to cancellation by a premium finance agency of an insurance contract and the return by an insurer of unearned premiums to the premium finance agency also apply to the surrender by a premium finance agency of an insurance contract providing life insurance and the payment by the insurer of the cash value of the contract to the premium finance agency, except that the insurer may require the surrender of the insurance contract.

3. In this section, unless the context otherwise requires:

(a) "Premium finance agency" includes (1) a lending institution making a loan for the purpose of financing insurance premiums in accordance with the applicable provisions of other laws authorizing and regulating the making of loans by the lending institution, and (2) a bank, or a sales finance company licensed under article eleven-b of this chapter;

(b) "Premium finance agreement" includes (1) a promissory note or other written agreement or obligation evidencing or securing such a loan by a lending institution, and (2) a retail instalment contract or obligation held by a bank, or a sales finance company so licensed; and

(c) "Insured" includes (1) each borrower or other obligor under or upon a promissory note or other written agreement or obligation evidencing or securing such a loan by a lending institution, and (2) each buyer under a retail instalment contract or obligation held by a bank, or a sales finance company so licensed.