§ 3427. Gap insurance; cancellation, renewal and other provisions. (a) Definitions. As used in this section:

(1) "Covered policy" means, for purposes of this section, a policy or contract of gap insurance, issued or issued for delivery in this state, on a risk located or resident in this state.

(2) "Nonpayment of premium" means the failure of the named insured to discharge any obligations in connection with the payment of premiums on a policy of insurance or any installment of such premium, whether the premium is payable directly to the insurer or its agent, or indirectly under any premium finance plan or extension of credit. Payment to the insurer, or to an agent or broker authorized to receive such payment, shall be timely, if made within fifteen days after the mailing to the insured of a notice of cancellation for nonpayment of premium.

(b) Lessor gap insurance:

(1) A covered policy of lessor gap insurance shall be subject to all the provisions of section three thousand four hundred twenty-six of this article, except as otherwise provided in this section.

(2) Subject to the notice requirements of subsection (c) of section three thousand four hundred twenty-six of this article, a covered policy of lessor gap insurance may be cancelled only for:

(A) one or more of the bases for cancellation set forth in subparagraphs (A) through (D), and (F) through (H) of paragraph one of subsection (c) of section three thousand four hundred twenty-six of this article;

(B) material change in the nature or extent of the risk, occurring after issuance or last annual renewal anniversary date of the policy, which causes the risk of loss to be substantially and materially increased beyond that contemplated at the time the policy was issued or last renewed; or

(C) if the policy automatically provides coverage for the gap amount waived under new leases entered into by the lessor, or acquired by the lessor's assignee, the lessor's or assignee's (whichever is the insured) failure to provide, within sixty days or as otherwise specified in the policy, the insurer with the name and address of each lessee and other information reasonably required by the insurer.

(c) Lessee gap insurance: (1) Except as provided in this section, the provisions of sections three thousand four hundred twenty-five and three

thousand four hundred twenty-six of this article shall not apply to a covered policy of lessee gap insurance.

(2) During the first sixty days a covered policy of lessee gap insurance is initially in effect, no cancellation shall become effective until twenty days after written notice is mailed to the first named insured at the mailing address shown in the policy, except for the bases for cancellation set forth in subparagraphs (A) through (H) of paragraph one of subsection (c) of section three thousand four hundred twenty-six of this article for which fifteen days notice shall be given.

(3) After a covered policy of lessee gap insurance has been in effect for sixty days, or on or after the effective date if the policy is a renewal, no cancellation or nonrenewal shall become effective until fifteen days after written notice is mailed or delivered to the first named insured at the mailing address shown in the policy and cancellation or nonrenewal is conditioned upon the termination of the lease for reasons other than a total loss of the personal property caused by its theft or physical damage, or is based on one or more of the reasons set forth in subparagraphs (A) through (H) of paragraph one of subsection (c) of section three thousand four hundred twenty-six of this article; except that where the lease is for ten years or longer, the policy may be cancelled or nonrenewed forty-five days after written notice is mailed or delivered to the first named insured at the mailing address shown in the policy if the cancellation or nonrenewal is to be effective upon the tenth anniversary date of the policy or any subsequent annual anniversary date.

(4) If the policy is not issued for a term coextensive with the length of the lease, the insurer shall renew it for successive terms for the duration of the lease, unless cancelled or nonrenewed in accordance with the provisions of this subsection.

(d) Creditor gap insurance:

(1) A covered policy of creditor gap insurance shall be subject to all the provisions of section three thousand four hundred twenty-six of this article, except as otherwise provided in this section.

(2) Subject to the notice requirements of subsection (c) of section three thousand four hundred twenty-six of this article, a covered policy of creditor gap insurance may be cancelled only for:

(A) One or more of the bases for cancellation set forth in

subparagraphs (A) through (D), and (F) through (H) of paragraph one of subsection (c) of section three thousand four hundred twenty-six of this article;

(B) Material change in the nature or extent of the risk, occurring after issuance or last annual renewal anniversary date of the policy, which causes the risk of loss to be substantially and materially increased beyond that contemplated at the time the policy was issued or last renewed; or

(C) If the policy automatically provides coverage for the gap amount waived under new loans or other credit transactions entered into by the creditor or acquired by the creditor's assignee, the creditor's or assignee's (whichever is the insured) failure to provide, within sixty days or as otherwise specified in the policy, the insurer with the name and address of each debtor and other information reasonably required by the insurer.

(e) Debtor gap insurance:

(1) Except as provided in this section, the provisions of sections three thousand four hundred twenty-five and three thousand four hundred twenty-six of this article shall not apply to a covered policy of debtor gap insurance.

(2) During the first sixty days a covered policy of debtor gap insurance is initially in effect, no cancellation shall become effective until twenty days after written notice is mailed to the first named insured at the mailing address shown in the policy, except for the bases for cancellation set forth in subparagraphs (A) through (H) of paragraph one of subsection (c) of section three thousand four hundred twenty-six of this article for which fifteen days notice shall be given.

(3) After a covered policy of debtor gap insurance has been in effect for sixty days, or on or after the effective date if the policy is a renewal, no cancellation or nonrenewal shall become effective until fifteen days after written notice is mailed or delivered to the first named insured at the mailing address shown in the policy and cancellation or nonrenewal is conditioned upon the termination of the loan for reasons other than a total loss of the personal property caused by its theft or physical damage, or is based on one or more of the reasons set forth in subparagraphs (A) through (H) of paragraph one of subsection (c) of section three thousand four hundred twenty-six of this

article; except that where the loan or other credit transaction is for ten years or longer, the policy may be cancelled or nonrenewed forty-five days after written notice is mailed or delivered to the first named insured at the mailing address shown in the policy if the cancellation or nonrenewal is to be effective upon the tenth anniversary date of the policy or any subsequent annual anniversary date.

(4) If the policy is not issued for a term coextensive with the length of the loan or other credit transaction, the insurer shall renew it for successive terms for the duration of the loan or other credit transaction, unless cancelled or nonrenewed in accordance with the provisions of this subsection.

(f) For purposes of this section, "property insured", as used in subparagraphs (E) and (H) of paragraph one of subsection (c) of section three thousand four hundred twenty-six of this article, means the property which is the subject of the lease or loan or other credit transaction.

(h) Every notice of cancellation issued pursuant to this section shall specify the grounds for cancellation.

(i) If a lessor, creditor or assignee charges the lessee or debtor for the waiver of the gap amount, the lessor or creditor, or, in the absence of a waiver by the creditor or lessor, the assignee, as part of the waiver offer, shall provide the lessee or debtor with a notice specifying the name of the insurer that has issued the lessor or creditor gap insurance policy, the cost of the lessor or creditor gap insurance coverage, and the charge for the waiver. Any person having been found, after notice and hearing, to have wilfully violated this subsection shall be liable to the people of this state for a civil penalty in a sum not exceeding five hundred dollars for each violation.

(j) Notwithstanding any other provision of this chapter, the cancellation and nonrenewal provisions of this section shall apply only to the gap insurance provisions of a policy or contract that also provides other coverages and the gap insurance coverage shall be severable from the other coverages for the purposes of cancellation and nonrenewal; except that lessor or debtor gap insurance coverage included within a policy insuring a mobile home shall be subject to the cancellation and nonrenewal requirements applicable to the mobile home policy.

(k) Notwithstanding section three thousand four hundred thirty-five of this article, a covered policy of lessor or creditor gap insurance that insures a lessor or creditor and the lessor's or creditor's assignees shall not be considered a group insurance policy.

(l) The superintendent may prescribe by regulation minimum policy provisions for gap insurance which the superintendent deems to be necessary or appropriate for lessor gap insurance, creditor gap insurance, lessee gap insurance and debtor gap insurance contracts or policies.