

§5-111. Cure of default

1. With respect to a consumer credit transaction, except as provided in subsection 2, after a default consisting only of the consumer's failure to make a required payment, a creditor, because of that default, may neither accelerate maturity of the unpaid balance of the obligation, nor take possession of or otherwise enforce a security interest in goods that are collateral until 14 days after a notice of the consumer's right to cure, as provided in section 5-110, is given, nor with respect to an insurance premium loan, give notice of cancellation as provided in subsection 4 until 10 days after a notice of the consumer's right to cure, as provided in section 5-110, is given. For purposes of this section, goods that are collateral shall include any right of set-off that the creditor may have. Until expiration of the minimum applicable period after the notice is given, the consumer may cure all defaults consisting of a failure to make the required payment by tendering the amount of all unpaid sums due at the time of the tender, without acceleration, plus any unpaid delinquency or deferral charges. Cure restores the consumer to his rights under the agreement as though the defaults had not occurred.

[PL 1985, c. 763, Pt. A, §43 (AMD).]

2. With respect to defaults on the same obligation and subject to subsection 1, after a creditor has once given a notice of consumer's right to cure, as provided in section 5-110, this section gives the consumer no right to cure and imposes no limitation on the creditor's right to proceed against the consumer or goods that are collateral with respect to a default that occurs within 12 months after an earlier default as to which a creditor has given a notice of consumer's right to cure, as provided in section 5-110. For the purpose of this section, in open-end credit, the obligation is the unpaid balance of the account.

[PL 1985, c. 763, Pt. A, §44 (AMD).]

3. This section and the provisions on waiver, agreements to forego rights and settlement of claims, as provided in section 1-107, do not prohibit a consumer from voluntarily surrendering possession of goods which are collateral and the creditor from thereafter accelerating maturity of the obligation and enforcing the obligation and his security interest in the goods at any time after default.

[PL 1975, c. 180 (AMD).]

4. If a default on an insurance premium loan is not cured, the lender may give notice of cancellation of each insurance policy or contract to be cancelled. If given, the notice of cancellation shall be in writing and given to the insurer who issued the policy or contract and to the insured. The insurer, within 2 business days after receipt of the notice of cancellation together with a copy of the insurance premium loan agreement if not previously given to him, shall give any notice of cancellation required by the policy, contract or law and, within 10 business days after the effective date of the cancellation, pay to the lender any premium unearned on the policy or contract as of that effective date. Within 10 business days after receipt of the unearned premium, the lender shall pay to the consumer indebted upon the insurance premium loan agreement any excess of the unearned premium received over the amount owing by the consumer upon the insurance premium loan.

[PL 1985, c. 763, Pt. A, §45 (AMD).]

5.

[PL 1981, c. 618, §9 (RP).]

6. Notwithstanding the other provisions of this section, a notice to cure default for a consumer credit transaction secured by a mortgage subject to Title 14, section 6111 must satisfy the requirements of Title 14, section 6111 and not the requirements of this section.

[PL 2009, c. 476, Pt. A, §1 (NEW).]

SECTION HISTORY

PL 1973, c. 762, §1 (NEW). PL 1975, c. 180 (AMD). PL 1975, c. 429, §2 (RPR). PL 1977, c. 159, §3 (AMD). PL 1981, c. 281, §5 (AMD). PL 1981, c. 618, §9 (AMD). PL 1985, c. 336, §§11,12 (AMD). PL 1985, c. 763, §§A43-45 (AMD). PL 2009, c. 476, Pt. A, §1 (AMD).

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