

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Nelson offered the following:

2
3 **Amendment (with title amendment)**

4 Between lines 199 and 200, insert:

5 Section 4. Subsection (2) of section 627.4133, Florida
6 Statutes, is amended to read:

7 627.4133 Notice of cancellation, nonrenewal, or renewal
8 premium.—

9 (2) With respect to any personal lines or commercial
10 residential property insurance policy, including, but not
11 limited to, any homeowner's, mobile home owner's, farmowner's,
12 condominium association, condominium unit owner's, apartment
13 building, or other policy covering a residential structure or
14 its contents:

15 (a) The insurer shall give the named insured at least 45
16 days' advance written notice of the renewal premium.

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17 (b) The insurer shall give the named insured written
18 notice of nonrenewal, cancellation, or termination at least 100
19 days before ~~prior to~~ the effective date of the nonrenewal,
20 cancellation, or termination. However, the insurer shall give at
21 least 100 days' written notice, or written notice by June 1,
22 whichever is earlier, for any nonrenewal, cancellation, or
23 termination that would be effective between June 1 and November
24 30. The notice must include the reason or reasons for the
25 nonrenewal, cancellation, or termination, except that:

26 1. The insurer must ~~shall~~ give the named insured written
27 notice of nonrenewal, cancellation, or termination at least 180
28 days before ~~prior to~~ the effective date of the nonrenewal,
29 cancellation, or termination for a named insured whose
30 residential structure has been insured by that insurer or an
31 affiliated insurer for at least a 5-year period immediately
32 prior to the date of the written notice.

33 2. When cancellation is for nonpayment of premium, at
34 least 10 days' written notice of cancellation accompanied by the
35 reason therefor must ~~shall~~ be given. As used in this
36 subparagraph, the term "nonpayment of premium" means failure of
37 the named insured to discharge when due any of her or his
38 obligations in connection with the payment of premiums on a
39 policy or any installment of such premium, whether the premium
40 is payable directly to the insurer or its agent or indirectly
41 under any premium finance plan or extension of credit, or
42 failure to maintain membership in an organization if such
43 membership is a condition precedent to insurance coverage.

44 "Nonpayment of premium" also means the failure of a financial
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45 institution to honor an insurance applicant's check after
46 delivery to a licensed agent for payment of a premium, even if
47 the agent has previously delivered or transferred the premium to
48 the insurer. If a dishonored check represents the initial
49 premium payment, the contract and all contractual obligations
50 are ~~shall be~~ void ab initio unless the nonpayment is cured
51 within the earlier of 5 days after actual notice by certified
52 mail is received by the applicant or 15 days after notice is
53 sent to the applicant by certified mail or registered mail, and
54 if the contract is void, any premium received by the insurer
55 from a third party must ~~shall~~ be refunded to that party in full.

56 3. When such cancellation or termination occurs during the
57 first 90 days during which the insurance is in force and the
58 insurance is canceled or terminated for reasons other than
59 nonpayment of premium, at least 20 days' written notice of
60 cancellation or termination accompanied by the reason therefor
61 must ~~shall~~ be given except if ~~where~~ there has been a material
62 misstatement or misrepresentation or failure to comply with the
63 underwriting requirements established by the insurer.

64 4. The requirement for providing written notice of
65 nonrenewal by June 1 of any nonrenewal that would be effective
66 between June 1 and November 30 does not apply to the following
67 situations, but the insurer remains subject to the requirement
68 to provide such notice at least 100 days before ~~prior to~~ the
69 effective date of nonrenewal:

70 a. A policy that is nonrenewed due to a revision in the
71 coverage for sinkhole losses and catastrophic ground cover

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72 collapse pursuant to s. 627.706, ~~as amended by s. 30, chapter~~
73 ~~2007-1, Laws of Florida.~~

74 b. A policy that is nonrenewed by Citizens Property
75 Insurance Corporation, pursuant to s. 627.351(6), for a policy
76 that has been assumed by an authorized insurer offering
77 replacement ~~or renewal~~ coverage to the policyholder is exempt
78 from the notice requirements of paragraph (a) and this
79 paragraph. In such cases, Citizens Property Insurance
80 Corporation shall give the named insured written notice of
81 nonrenewal at least 45 days before the effective date of the
82 nonrenewal.

83
84 After the policy has been in effect for 90 days, the policy may
85 ~~shall~~ not be canceled by the insurer except if ~~when~~ there has
86 been a material misstatement, a nonpayment of premium, a failure
87 to comply with underwriting requirements established by the
88 insurer within 90 days of the date of effectuation of coverage,
89 or a substantial change in the risk covered by the policy or if
90 ~~when~~ the cancellation is for all insureds under such policies
91 for a given class of insureds. This paragraph does not apply to
92 individually rated risks having a policy term of less than 90
93 days.

94 5. Notwithstanding any other provision of law, an insurer
95 may cancel or nonrenew a property insurance policy upon a
96 minimum of 45 days' notice if the office finds that the early
97 cancellation of some or all of the insurer's policies is
98 necessary to protect the best interests of the public or
99 policyholders and the office approves the insurer's plan for

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100 early cancellation or nonrenewal of some or all of its policies.
101 The office may base such a finding upon the financial condition
102 of the insurer, lack of adequate reinsurance coverage for
103 hurricane risk, or other relevant factors. The office may
104 condition its finding on the consent of the insurer to be placed
105 in administrative supervision pursuant to s. 624.81 or consent
106 to the appointment of a receiver under chapter 631.

107 (c) If the insurer fails to provide the notice required by
108 this subsection, other than the 10-day notice, the coverage
109 provided to the named insured shall remain in effect until the
110 effective date of replacement coverage or until the expiration
111 of a period of days after the notice is given equal to the
112 required notice period, whichever occurs first. The premium for
113 the coverage shall remain the same during any such extension
114 period except that, in the event of failure to provide notice of
115 nonrenewal, if the rate filing then in effect would have
116 resulted in a premium reduction, the premium during such
117 extension must ~~shall~~ be calculated based on the later rate
118 filing.

119 (d)1. Upon a declaration of an emergency pursuant to s.
120 252.36 and the filing of an order by the Commissioner of
121 Insurance Regulation, an insurer may not cancel or nonrenew a
122 personal residential or commercial residential property
123 insurance policy covering a dwelling or residential property
124 located in this state which has been damaged as a result of a
125 hurricane or wind loss that is the subject of the declaration of
126 emergency for a period of 90 days after the dwelling or
127 residential property has been repaired. A structure is deemed to
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128 be repaired when substantially completed and restored to the
129 extent that it is insurable by another authorized insurer that
130 is writing policies in this state.

131 2. However, an insurer or agent may cancel or nonrenew
132 such a policy before ~~prior to~~ the repair of the dwelling or
133 residential property:

134 a. Upon 10 days' notice for nonpayment of premium; or

135 b. Upon 45 days' notice:

136 (I) For a material misstatement or fraud related to the
137 claim;

138 (II) If the insurer determines that the insured has
139 unreasonably caused a delay in the repair of the dwelling; or

140 (III) If the insurer has paid policy limits.

141 3. If the insurer elects to nonrenew a policy covering a
142 property that has been damaged, the insurer shall provide at
143 least 90 days' notice to the insured that the insurer intends to
144 nonrenew the policy 90 days after the dwelling or residential
145 property has been repaired. Nothing in this paragraph shall
146 prevent the insurer from canceling or nonrenewing the policy 90
147 days after the repairs are complete for the same reasons the
148 insurer would otherwise have canceled or nonrenewed the policy
149 but for the limitations of subparagraph 1. The Financial
150 Services Commission may adopt rules, and the Commissioner of
151 Insurance Regulation may issue orders, necessary to implement
152 this paragraph.

153 4. This paragraph ~~shall~~ also applies ~~apply~~ to personal
154 residential and commercial residential policies covering
155 property that was damaged as the result of Tropical Storm
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156 Bonnie, Hurricane Charley, Hurricane Frances, Hurricane Ivan, or
157 Hurricane Jeanne.

158 (e) If any cancellation or nonrenewal of a policy subject
159 to this subsection is to take effect during the duration of a
160 hurricane as defined in s. 627.4025(2)(c), the effective date of
161 such cancellation or nonrenewal is extended until the end of the
162 duration of such hurricane. The insurer may collect premium at
163 the prior rates or the rates then in effect for the period of
164 time for which coverage is extended. This paragraph does not
165 apply to any property with respect to which replacement coverage
166 has been obtained and which is in effect for a claim occurring
167 during the duration of the hurricane.

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171 **T I T L E A M E N D M E N T**

172 Remove line 64 and insert:

173 information at the insurer's expense; amending s. 627.4133,
174 F.S.; authorizing an insurer to cancel policies after 45 days'
175 notice if the Office of Insurance Regulation determines that the
176 cancellation of policies is necessary to protect the interests
177 of the public or policyholders; authorizing the Office of
178 Insurance Regulation to place an insurer under administrative
179 supervision or appoint a receiver upon the consent of the
180 insurer under certain circumstances; providing an