

Bill No. CS for CS for SB 1980

Barcode 150954

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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05/05/2006 12:49 PM

11 Senator Posey moved the following **amendment to amendment**
12 (021596):

14 **Senate Amendment (with title amendment)**

15 On page 128, between lines 18 and 19,

17 insert:

18 Section 42. Subsection (1) and paragraph (b) of
19 subsection (2) of section 627.4133, Florida Statutes, are
20 amended to read:

21 627.4133 Notice of cancellation, nonrenewal, or
22 renewal premium.--

23 (1) Except as provided in subsection (2):

24 (a) An insurer issuing a policy providing coverage for
25 workers' compensation and employer's liability insurance,
26 property, casualty, except mortgage guaranty, surety, or
27 marine insurance, other than motor vehicle insurance subject
28 to s. 627.728, shall give the named insured at least 45 days'
29 advance written notice of nonrenewal or of the renewal
30 premium. If the policy is not to be renewed, the written
31 notice shall state the reason or reasons as to why the policy

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1 is not to be renewed. This requirement applies only if the
2 insured has furnished all of the necessary information so as
3 to enable the insurer to develop the renewal premium prior to
4 the expiration date of the policy to be renewed.

5 (b) An insurer issuing a policy providing coverage for
6 property, casualty, except mortgage guaranty, surety, or
7 marine insurance, other than motor vehicle insurance subject
8 to s. 627.728 or s. 627.7281, shall give the named insured
9 written notice of cancellation or termination other than
10 nonrenewal at least 45 days prior to the effective date of the
11 cancellation or termination, including in the written notice
12 the reason or reasons for the cancellation or termination,
13 except that:

14 1. When cancellation is for nonpayment of premium, at
15 least 10 days' written notice of cancellation accompanied by
16 the reason therefor shall be given. As used in this
17 subparagraph, the term "nonpayment of premium" means failure
18 of the named insured to discharge when due any of her or his
19 obligations in connection with the payment of premiums on a
20 policy or any installment of such premium, whether the premium
21 is payable directly to the insurer or its agent or indirectly
22 under any premium finance plan or extension of credit, or
23 failure to maintain membership in an organization if such
24 membership is a condition precedent to insurance coverage.

25 "Nonpayment of premium" also means the failure of a financial
26 institution to honor an insurance applicant's check after
27 delivery to a licensed agent for payment of a premium, even if
28 the agent has previously delivered or transferred the premium
29 to the insurer. If a dishonored check represents the initial
30 premium payment, the contract and all contractual obligations
31 shall be void ab initio unless the nonpayment is cured within

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1 the earlier of 5 days after actual notice by certified mail is
 2 received by the applicant or 15 days after notice is sent to
 3 the applicant by certified mail or registered mail, and if the
 4 contract is void, any premium received by the insurer from a
 5 third party shall be refunded to that party in full; and

6 2. When such cancellation or termination occurs during
 7 the first 90 days during which the insurance is in force and
 8 the insurance is canceled or terminated for reasons other than
 9 nonpayment of premium, at least 20 days' written notice of
 10 cancellation or termination accompanied by the reason therefor
 11 shall be given except where there has been a material
 12 misstatement or misrepresentation or failure to comply with
 13 the underwriting requirements established by the insurer.

14
 15 After the policy has been in effect for 90 days, no such
 16 policy shall be canceled by the insurer except when there has
 17 been a material misstatement, a nonpayment of premium, a
 18 failure to comply with underwriting requirements established
 19 by the insurer within 90 days of the date of effectuation of
 20 coverage, or a substantial change in the risk covered by the
 21 policy or when the cancellation is for all insureds under such
 22 policies for a given class of insureds. ~~The provisions of This~~
 23 subsection does ~~shall~~ not apply to individually rated risks
 24 having a policy term of less than 90 days.

25 (c) If an insurer fails to provide the 45-day or
 26 20-day written notice required under this section, the
 27 coverage provided to the named insured shall remain in effect
 28 until 45 days after the notice is given or until the effective
 29 date of replacement coverage obtained by the named insured,
 30 whichever occurs first. The premium for the coverage shall
 31 remain the same during any such extension period except that,

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1 in the event of failure to provide notice of nonrenewal, if
2 the rate filing then in effect would have resulted in a
3 premium reduction, the premium during such extension of
4 coverage shall be calculated based upon the later rate filing.

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

11 (b) The insurer shall give the named insured written
12 notice of nonrenewal, cancellation, or termination at least 90
13 days prior to the effective date of the nonrenewal,
14 cancellation, or termination. The notice must include the
15 reason or reasons for the nonrenewal, cancellation, or
16 termination, except that:

17 1. When cancellation is for nonpayment of premium, at
18 least 10 days' written notice of cancellation accompanied by
19 the reason therefor shall be given. As used in this
20 subparagraph, the term "nonpayment of premium" means failure
21 of the named insured to discharge when due any of her or his
22 obligations in connection with the payment of premiums on a
23 policy or any installment of such premium, whether the premium
24 is payable directly to the insurer or its agent or indirectly
25 under any premium finance plan or extension of credit, or
26 failure to maintain membership in an organization if such
27 membership is a condition precedent to insurance coverage.

28 "Nonpayment of premium" also means the failure of a financial
29 institution to honor an insurance applicant's check after
30 delivery to a licensed agent for payment of a premium, even if
31 the agent has previously delivered or transferred the premium

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1 to the insurer. If a dishonored check represents the initial
 2 premium payment, the contract and all contractual obligations
 3 shall be void ab initio unless the nonpayment is cured within
 4 the earlier of 5 days after actual notice by certified mail is
 5 received by the applicant or 15 days after notice is sent to
 6 the applicant by certified mail or registered mail, and if the
 7 contract is void, any premium received by the insurer from a
 8 third party shall be refunded to that party in full.

9 2. When such cancellation or termination occurs during
 10 the first 90 days during which the insurance is in force and
 11 the insurance is canceled or terminated for reasons other than
 12 nonpayment of premium, at least 20 days' written notice of
 13 cancellation or termination accompanied by the reason therefor
 14 shall be given except where there has been a material
 15 misstatement or misrepresentation or failure to comply with
 16 the underwriting requirements established by the insurer.

17
 18 After the policy has been in effect for 90 days, the policy
 19 shall not be canceled by the insurer except when there has
 20 been a material misstatement, a nonpayment of premium, a
 21 failure to comply with underwriting requirements established
 22 by the insurer within 90 days of the date of effectuation of
 23 coverage, or a substantial change in the risk covered by the
 24 policy or when the cancellation is for all insureds under such
 25 policies for a given class of insureds. This paragraph does
 26 not apply to individually rated risks having a policy term of
 27 less than 90 days.

28
 29 (Redesignate subsequent sections.)
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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 On page 140, line 25, after the semicolon,

4

5 insert:

6 amending s. 627.4133, F.S.; defining the term

7 "nonpayment of premium" for purposes of

8 insurance contracts;

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