

Bill No. CS for CS for SB 1980

Barcode 645462

CHAMBER ACTION

Senate

House

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Senator Campbell moved the following **substitute for amendment**
to amendment (150954):

Senate Amendment (with title amendment)

On page 128, between lines 18 and 19,

insert:

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

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

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

(a) An insurer issuing a policy providing coverage for
workers' compensation and employer's liability insurance,
property, casualty, except mortgage guaranty, surety, or
marine insurance, other than motor vehicle insurance subject
to s. 627.728, shall give the named insured at least 45 days'
advance written notice of nonrenewal or of the renewal
premium. If the policy is not to be renewed, the written
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 willful
18 failure of the named insured to discharge when due any of her
19 or his obligations in connection with the payment of premiums
20 on a policy or any installment of such premium, whether the
21 premium is payable directly to the insurer or its agent or
22 indirectly under any premium finance plan or extension of
23 credit, or failure to maintain membership in an organization
24 if such membership is a statutorily required condition
25 precedent to insurance coverage. "Nonpayment of premium" also
26 means the failure of a financial institution to honor an
27 insurance applicant's check for insufficient funds after
28 delivery to a licensed agent for payment of a premium, unless
29 such failure was the fault of a financial institution even if
30 the agent has previously delivered or transferred the premium
31 to the insurer. If a dishonored check represents the initial

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

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

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

27 (c) If an insurer fails to provide the 45-day or
 28 20-day written notice required under this section, the
 29 coverage provided to the named insured shall remain in effect
 30 until 45 days after the notice is given or until the effective
 31 date of replacement coverage obtained by the named insured,

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1 whichever occurs first. The premium for the coverage shall
 2 remain the same during any such extension period except that,
 3 in the event of failure to provide notice of nonrenewal, if
 4 the rate filing then in effect would have resulted in a
 5 premium reduction, the premium during such extension of
 6 coverage shall be calculated based upon the later rate filing.

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

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

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

30 "Nonpayment of premium" also means the failure of a financial
 31 institution to honor an insurance applicant's check after

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

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

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

30
31 (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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