

By Senator Smith

29-01709-11

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1 A bill to be entitled
2 An act relating to persons designated to receive
3 insurer notifications; amending s. 627.4133, F.S.;
4 changing the designated person or persons who must be
5 notified by an insurer from the "insured" to the
6 "first-named insured" in situations involving the
7 nonrenewal, renewal premium, cancellation, or
8 termination of workers' compensation, employer
9 liability, or certain property and casualty insurance
10 coverage; amending s. 627.7277, F.S.; making a
11 conforming change that specifies the "first-named
12 insured" as the person who is to receive notification
13 of a renewal premium; amending s. 627.728, F.S.;
14 changing the designated person or persons who must be
15 notified by an insurer from the "insured" to the
16 "first-named insured" in certain situations involving
17 the cancellation or nonrenewal of motor vehicle
18 insurance coverage; making a conforming change that
19 specifies the "first-named insured's insurance agent"
20 as a person who is to receive certain notifications
21 relating to motor vehicle insurance coverage; amending
22 s. 627.7281, F.S.; making a conforming change that
23 specifies the "first-named insured" as the person who
24 is to receive notification of cancellation of motor
25 vehicle insurance coverage; providing an effective
26 date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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30 Section 1. Paragraphs (a) and (b) of subsection (1) and
31 paragraphs (a) and (b) of subsection (2) of section 627.4133,
32 Florida Statutes, are amended to read:

33 627.4133 Notice of cancellation, nonrenewal, or renewal
34 premium.—

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

36 (a) An insurer issuing a policy providing coverage for
37 workers' compensation and employer's liability insurance,
38 property, casualty, except mortgage guaranty, surety, or marine
39 insurance, other than motor vehicle insurance subject to s.
40 627.728, shall give the first-named ~~named~~ insured at least 45
41 days' advance written notice of nonrenewal or of the renewal
42 premium. If the policy is not to be renewed, the written notice
43 shall state the reason or reasons as to why the policy is not to
44 be renewed. This requirement applies only if the insured has
45 furnished all of the necessary information so as to enable the
46 insurer to develop the renewal premium prior to the expiration
47 date of the policy to be renewed.

48 (b) An insurer issuing a policy providing coverage for
49 property, casualty, except mortgage guaranty, surety, or marine
50 insurance, other than motor vehicle insurance subject to s.
51 627.728 or s. 627.7281, shall give the first-named ~~named~~ insured
52 written notice of cancellation or termination other than
53 nonrenewal at least 45 days prior to the effective date of the
54 cancellation or termination, including in the written notice the
55 reason or reasons for the cancellation or termination, except
56 that:

57 1. When cancellation is for nonpayment of premium, at least
58 10 days' written notice of cancellation accompanied by the

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59 reason therefor shall be given. As used in this subparagraph,
60 the term "nonpayment of premium" means failure of the named
61 insured to discharge when due any of her or his obligations in
62 connection with the payment of premiums on a policy or any
63 installment of such premium, whether the premium is payable
64 directly to the insurer or its agent or indirectly under any
65 premium finance plan or extension of credit, or failure to
66 maintain membership in an organization if such membership is a
67 condition precedent to insurance coverage. "Nonpayment of
68 premium" also means the failure of a financial institution to
69 honor an insurance applicant's check after delivery to a
70 licensed agent for payment of a premium, even if the agent has
71 previously delivered or transferred the premium to the insurer.
72 If a dishonored check represents the initial premium payment,
73 the contract and all contractual obligations shall be void ab
74 initio unless the nonpayment is cured within the earlier of 5
75 days after actual notice by certified mail is received by the
76 applicant or 15 days after notice is sent to the applicant by
77 certified mail or registered mail, and if the contract is void,
78 any premium received by the insurer from a third party shall be
79 refunded to that party in full; and

80 2. When such cancellation or termination occurs during the
81 first 90 days during which the insurance is in force and the
82 insurance is canceled or terminated for reasons other than
83 nonpayment of premium, at least 20 days' written notice of
84 cancellation or termination accompanied by the reason therefor
85 shall be given except where there has been a material
86 misstatement or misrepresentation or failure to comply with the
87 underwriting requirements established by the insurer.

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89 After the policy has been in effect for 90 days, no such policy
90 shall be canceled by the insurer except when there has been a
91 material misstatement, a nonpayment of premium, a failure to
92 comply with underwriting requirements established by the insurer
93 within 90 days of the date of effectuation of coverage, or a
94 substantial change in the risk covered by the policy or when the
95 cancellation is for all insureds under such policies for a given
96 class of insureds. This subsection does not apply to
97 individually rated risks having a policy term of less than 90
98 days.

99 (2) With respect to any personal lines or commercial
100 residential property insurance policy, including, but not
101 limited to, any homeowner's, mobile home owner's, farmowner's,
102 condominium association, condominium unit owner's, apartment
103 building, or other policy covering a residential structure or
104 its contents:

105 (a) The insurer shall give the first-named ~~named~~ insured at
106 least 45 days' advance written notice of the renewal premium.

107 (b) The insurer shall give the first-named ~~named~~ insured
108 written notice of nonrenewal, cancellation, or termination at
109 least 100 days prior to the effective date of the nonrenewal,
110 cancellation, or termination. However, the insurer shall give at
111 least 100 days' written notice, or written notice by June 1,
112 whichever is earlier, for any nonrenewal, cancellation, or
113 termination that would be effective between June 1 and November
114 30. The notice must include the reason or reasons for the
115 nonrenewal, cancellation, or termination, except that:

116 1. The insurer shall give the first-named ~~named~~ insured

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117 written notice of nonrenewal, cancellation, or termination at
118 least 180 days prior to the effective date of the nonrenewal,
119 cancellation, or termination for a first-named ~~named~~ insured
120 whose residential structure has been insured by that insurer or
121 an affiliated insurer for at least a 5-year period immediately
122 prior to the date of the written notice.

123 2. When cancellation is for nonpayment of premium, at least
124 10 days' written notice of cancellation accompanied by the
125 reason therefor shall be given. As used in this subparagraph,
126 the term "nonpayment of premium" means failure of the named
127 insured to discharge when due any of her or his obligations in
128 connection with the payment of premiums on a policy or any
129 installment of such premium, whether the premium is payable
130 directly to the insurer or its agent or indirectly under any
131 premium finance plan or extension of credit, or failure to
132 maintain membership in an organization if such membership is a
133 condition precedent to insurance coverage. "Nonpayment of
134 premium" also means the failure of a financial institution to
135 honor an insurance applicant's check after delivery to a
136 licensed agent for payment of a premium, even if the agent has
137 previously delivered or transferred the premium to the insurer.
138 If a dishonored check represents the initial premium payment,
139 the contract and all contractual obligations shall be void ab
140 initio unless the nonpayment is cured within the earlier of 5
141 days after actual notice by certified mail is received by the
142 applicant or 15 days after notice is sent to the applicant by
143 certified mail or registered mail, and if the contract is void,
144 any premium received by the insurer from a third party shall be
145 refunded to that party in full.

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146 3. When such cancellation or termination occurs during the
147 first 90 days during which the insurance is in force and the
148 insurance is canceled or terminated for reasons other than
149 nonpayment of premium, at least 20 days' written notice of
150 cancellation or termination accompanied by the reason therefor
151 shall be given except where there has been a material
152 misstatement or misrepresentation or failure to comply with the
153 underwriting requirements established by the insurer.

154 4. The requirement for providing written notice of
155 nonrenewal by June 1 of any nonrenewal that would be effective
156 between June 1 and November 30 does not apply to the following
157 situations, but the insurer remains subject to the requirement
158 to provide such notice at least 100 days prior to the effective
159 date of nonrenewal:

160 a. A policy that is nonrenewed due to a revision in the
161 coverage for sinkhole losses and catastrophic ground cover
162 collapse pursuant to s. 627.706, as amended by s. 30, chapter
163 2007-1, Laws of Florida.

164 b. A policy that is nonrenewed by Citizens Property
165 Insurance Corporation, pursuant to s. 627.351(6), for a policy
166 that has been assumed by an authorized insurer offering
167 replacement or renewal coverage to the policyholder.

168
169 After the policy has been in effect for 90 days, the policy
170 shall not be canceled by the insurer except when there has been
171 a material misstatement, a nonpayment of premium, a failure to
172 comply with underwriting requirements established by the insurer
173 within 90 days of the date of effectuation of coverage, or a
174 substantial change in the risk covered by the policy or when the

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175 cancellation is for all insureds under such policies for a given
176 class of insureds. This paragraph does not apply to individually
177 rated risks having a policy term of less than 90 days.

178 Section 2. Subsection (2) of section 627.7277, Florida
179 Statutes, is amended to read:

180 627.7277 Notice of renewal premium.—

181 (2) An insurer shall mail or deliver to the first-named
182 insured ~~its policyholder~~ at least 30 days' advance written
183 notice of the renewal premium for the policy.

184 Section 3. Paragraph (a) of subsection (3), paragraphs (a)
185 and (d) of subsection (4), and subsections (5) and (6) of
186 section 627.728, Florida Statutes, are amended to read:

187 627.728 Cancellations; nonrenewals.—

188 (3) (a) No notice of cancellation of a policy to which this
189 section applies shall be effective unless mailed or delivered by
190 the insurer to the first-named ~~named~~ insured and to the first-
191 named ~~named~~ insured's insurance agent at least 45 days prior to
192 the effective date of cancellation, except that, when
193 cancellation is for nonpayment of premium, at least 10 days'
194 notice of cancellation accompanied by the reason therefor shall
195 be given. No notice of cancellation of a policy to which this
196 section applies shall be effective unless the reason or reasons
197 for cancellation accompany the notice of cancellation.

198 (4) (a) No insurer shall fail to renew a policy unless it
199 mails or delivers to the first-named ~~named~~ insured, at the
200 address shown in the policy, and to the first-named ~~named~~
201 insured's insurance agent at her or his business address, at
202 least 45 days' advance notice of its intention not to renew; and
203 the reasons for refusal to renew must accompany such notice.

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204 This subsection does not apply:

- 205 1. If the insurer has manifested its willingness to renew;
206 or
207 2. In case of nonpayment of premium.

208
209 Notwithstanding the failure of an insurer to comply with this
210 subsection, the policy shall terminate on the effective date of
211 any other automobile liability insurance policy procured by the
212 insured with respect to any automobile designated in both
213 policies. Unless a written explanation for refusal to renew
214 accompanies the notice of intention not to renew, the policy
215 shall remain in full force and effect.

216 (d) Instead of canceling or nonrenewing a policy, an
217 insurer may, upon expiration of the policy term, transfer a
218 policy to another insurer under the same ownership or management
219 as the transferring insurer, by giving the first-named ~~named~~
220 insured at least 45 days' advance notice of its intent to
221 transfer the policy and of the premium and the specific reasons
222 for any increase in the premium.

223 (5) United States postal proof of mailing or certified or
224 registered mailing of notice of cancellation, of intention not
225 to renew, or of reasons for cancellation, or of the intention of
226 the insurer to issue a policy by an insurer under the same
227 ownership or management, to the first-named ~~named~~ insured at the
228 address shown in the policy shall be sufficient proof of notice.

229 (6) When a policy is canceled, other than for nonpayment of
230 premium, or in the event of failure to renew a policy to which
231 subsection (4) applies, the insurer shall notify the first-named
232 ~~named~~ insured of her or his possible eligibility for insurance

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233 through the Automobile Joint Underwriting Association. Such
234 notice shall accompany or be included in the notice of
235 cancellation or the notice of intent not to renew and shall
236 state that such notice of availability of the Automobile Joint
237 Underwriting Association is given pursuant to this section.

238 Section 4. Section 627.7281, Florida Statutes, is amended
239 to read:

240 627.7281 Cancellation notice.—An insurer issuing a policy
241 of motor vehicle insurance not covered under the cancellation
242 provisions of s. 627.728 shall give the first-named ~~named~~
243 insured notice of cancellation at least 45 days prior to the
244 effective date of cancellation, except that, when cancellation
245 is for nonpayment of premium, at least 10 days' notice of
246 cancellation accompanied by the reason therefor shall be given.
247 As used in this section, "policy" does not include a binder as
248 defined in s. 627.420 unless the duration of the binder period
249 exceeds 60 days.

250 Section 5. This act shall take effect July 1, 2011.