

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Budget Subcommittee on General Government Appropriations

BILL: CS/CS/SB 1428

INTRODUCER: Budget Subcommittee on General Government Appropriations; Banking and Insurance Committee and Senator Smith

SUBJECT: Renewal of a Commercial Lines Insurance Policy

DATE: February 28, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Burgess</u>	<u>Burgess</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Betta</u>	<u>DeLoach</u>	<u>BGA</u>	<u>Fav/CS</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

The bill provides that upon the expiration of the term of a commercial lines insurance policy, the insurer may transfer the policy to another authorized insurer that is a member of the same group or owned by the same holding company. This type of transfer would be treated as a renewal of the policy, rather than a cancellation or nonrenewal. The insurer is required to provide at least 45 days' notice of its intent to transfer, along with the financial rating of the insurer to which the policy is being transferred. The notice may be provided in the notice of renewal premium.

The bill explicitly provides that it does not apply to residential property insurance, except for farmowners insurance and general liability policies that provide farm coverage or commercial property policies that provide farm coverage.

The bill eliminates the mandatory onsite premium audits of policyholders if a workers' compensation insurer meets certain financial requirements. This change will provide insurers with flexibility to implement risk-based audits.

The bill authorizes the Office of Insurance Regulation (OIR) to expend funds within existing resources for professional development of its employees.

This bill substantially amends the following section of the Florida Statutes: 627.4133.

II. Present Situation:

Commercial Lines Insurance

Commercial lines insurance is designed for and purchased by businesses to cover losses sustained by the business.¹ The specific type of commercial lines insurance that a business purchases may depend, in part, on the business type and industry. Major types of commercial insurance are:

- Boiler and machinery;
- Business income;
- Commercial automobile;
- Comprehensive general liability;
- Directors and officers liability;
- Medical malpractice liability;
- Product liability;
- Professional liability; and
- Workers' compensation.

Notice of Cancellation, Nonrenewal, or Renewal Premium

The requirements for an insurer to give notice of cancellation, nonrenewal, or renewal premium are provided in s. 627.4133, F.S. The specific notice depends on the type of insurance being provided and the particular circumstances of the subject policy. For workers' compensation, employer's liability insurance, property (except personal lines and commercial lines residential), casualty except mortgage guaranty, surety, or marine insurance, other than motor vehicle, must give the insured at least 45 days' written notice of cancellation, nonrenewal, or the renewal premium.² For motor vehicle policies, the general requirement is also 45 days notice for nonrenewal or cancellation, but there exist several exceptions, depending on the circumstance.³ For personal lines or commercial lines residential property insurance:

- Generally, an insurer must give the insured 100 days written notice of nonrenewal or cancellation, and must give 45 days' notice of the renewal premium;⁴
- For any nonrenewal or cancellation that would be effective between June 1 and November 30 (hurricane season), an insurer must give notice by June 1, or 100 days, whichever is earlier;⁵
- If the nonrenewal or cancellation would be effective between June 1 and November 30, but the reason is a revision in sinkhole coverage, the insurer must give the insured 100 days written notice of nonrenewal;⁶

¹ <http://www2.iii.org/glossary/> "commercial lines" definition. Last visited 1/23/2012.

² Section 627.4133(1)(a) and (b), F.S.

³ Section 627.728(3) and (4), F.S.

⁴ Section 627.4133(2)(a) and (b), F.S.

⁵ Section 627.4133(2)(b), F.S.

- If the nonrenewal or cancellation would be effective between June 1 and November 30, but the policy is to be nonrenewed by Citizens pursuant to an approved assumption plan by an authorized insurer, Citizens must give the insured 45 days written notice of nonrenewal;⁷
- If the insured structure has been insured by the insurer or an affiliate for at least five years, the insurer must give 120 days' notice of nonrenewal or cancellation;⁸
- If the cancellation is for nonpayment of premium, the insurer must give 10 days' notice of cancellation accompanied by the reason for the cancellation;⁹
- If the Office of Insurance Regulation finds that the early cancellation is necessary to protect the best interests of the public or policyholders, the insurer must give the insured 45 days written notice of cancellation or nonrenewal.¹⁰

Section 627.728(4)(d), F.S.

Currently, s. 627.728(4)(d), F.S., allows an insurance company to transfer a motor vehicle insurance policy to a new insurer under the same ownership or management of first insurer, instead of canceling and nonrenewing the policies at the expiration of the policy term, by giving the insured 45 days' advance notice the intent to transfer.

Insurer Audits

All insurance companies licensed in the State of Florida are required to cooperate and undergo audits by the OIR. Companies are required to reimburse the OIR for the cost of audits performed.

III. Effect of Proposed Changes:

The bill provides that upon the expiration of the term of a commercial lines insurance policy, the insurer may transfer the policy to another authorized insurer that is a member of the same group or owned by the same holding company. This type of transfer would be treated as a renewal of the policy, rather than a cancellation or nonrenewal. The insurer is required to provide at least 45 days' notice of its intent to transfer, along with the financial rating of the insurer to which the policy is being transferred. The notice may be provided in the notice of renewal premium.

The bill explicitly provides that it does not apply to residential property insurance, except for farmowners insurance and general liability policies that provide farm coverage or commercial property policies that provide farm coverage.

The bill eliminates the mandatory onsite premium audits of policyholders if a workers' compensation insurer has surplus of at least \$200 million or insurers within an insurer group that has at least \$400 million in surplus.

⁶ Section 627.4133(2)(b)1., F.S.

⁷ Section 627.4133(2)(b)4.b., F.S.

⁸ Section 627.4133(2)(b)1., F.S.

⁹ Section 627.4133(1)(b)1., F.S.

¹⁰ Section 627.4133(2)(b)5., F.S.

The bill authorizes the Office of Insurance Regulation to expend funds within existing resources for professional development of its employees.

The bill is effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Allowing policies to be transferred between affiliated insurers, rather than requiring policies to be nonrenewed by the original insurer and reissued by an affiliated insurer, allows insurers to more easily manage their book of business, and insurers believe it will eliminate confusion among policyholders associated with policy nonrenewal and subsequent reissuance.

Eliminates the mandatory onsite premium audits of policyholders if a workers' compensation insurer meets certain financial requirements. This will save insurers money by performing audits that are more risk-based.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Budget Subcommittee on General Government Appropriations on February 28, 2012:

The CS eliminates mandatory onsite premium audits of policyholders if a workers' compensation insurer has a surplus of at least \$200 million or insurers within a group that has a surplus of at least \$400 million.

The CS also authorizes the Office of Insurance Regulation to expend funds within existing resources for professional development of its employees.

CS by Banking and Insurance on February 2, 2012:

The CS provides that upon the expiration of the term of a commercial lines insurance policy, the insurer may transfer the policy to another authorized insurer that is a member of the same group or owned by the same holding company, whereas the original bill allowed a transfer to an authorized insurer under the "same direct or indirect ownership, management, or control" as the original insurer.

The CS adds the requirement that the insurer must provide at least 45 days' notice of its intent to transfer, along with the financial rating of the insurer to which the policy is being transferred. The CS allows the insurer to provide the notice of its intent to transfer within the notice of renewal premium.

The CS explicitly provides that it does not apply to residential property insurance, except for farmowners insurance and general liability policies that provide farm coverage or commercial property policies that provide farm coverage.

- B. **Amendments:**

None.