

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 Committee on Rules

BILL: CS/SB 1104

INTRODUCER: Judiciary Committee and Senator Bradley

SUBJECT: Policy Cancellations and Nonrenewals by Property Insurers

DATE: February 23, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Thomas</u>	<u>Knudson</u>	<u>BI</u>	Favorable
2.	<u>Bond</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
3.	<u>Thomas</u>	<u>Twogood</u>	<u>RC</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1104 limits the cancellation or nonrenewal of personal lines residential property insurance and commercial residential property insurance policies, whether authorized lines or surplus lines, where the property has suffered a loss related to a hurricane. If a property was damaged by any covered peril, the insurer may not cancel or nonrenew the property insurance policy until 90 days after completion of repairs. However:

- If flood is not a covered peril and the property has been damaged by flood, the insurer may not cancel or nonrenew until the earlier of completion of repairs or 18 months after the date of loss.
- The insurer may cancel or nonrenew on 10 days' notice for nonpayment of premium; or on 45 days notice for material misstatement, fraud, unreasonable delay by the insured, or if the insurer has paid policy limits.
- Any nonrenewal after damage requires at least 90 days notice that the policy will be not renewed and that the nonrenewal must not take effect until at least 90 days after completion of repairs.

A policy extended by these provisions must have similar terms, but is subject to current premium rates. The bill defines completion of repairs to mean when one of the following licensed professionals inspects and certifies to completion of repairs: a home inspector, building code inspector, contractor, engineer, or architect.

The bill does not appear to have a significant fiscal impact on state or local government.

The bill provides an effective date of July 1, 2024.

II. Present Situation:

The requirements for an insurer to provide notice of cancellation or nonrenewal of a policy are set forth in s. 627.4133, F.S. The specific notice depends on the type of insurance provided and the particular circumstances of the subject policy.

For coverage of property, casualty (except for mortgage guaranty), surety, or marine insurance (except for certain motor vehicle insurance), an insurer must inform the first-named policyholder with 45 days' advance written notice of the cancellation or nonrenewal.¹ When cancellation is due to failure to pay a premium, at least 10 days' written notice of cancellation and the reason for the cancellation must be provided to the insured.² When cancellation occurs during the first 60 days and is not a result of nonpayment of premium, at least 20 days' written notice and the reason for cancellation must be given to the insured except where there has been a material misstatement, misrepresentation, or failure to comply with the policy's underwriting requirements.³ After 60 days, no such policy may be cancelled by the insurer unless there has been a material misstatement, a failure to pay the premium, a failure to comply with the policy's underwriting requirements within a specified time, or a substantial change in the risk covered by the policy or when cancellation is given for a class of insureds.⁴ If an insurer fails to provide the 45-day or 20-day written notice, the coverage provided remains in effect until 45 days after the notice is given or until the effective date of replacement coverage obtained by the named insured, whichever occurs first.⁵

With respect to personal lines or commercial residential property insurance policies, such as any homeowner, mobile home owner, farm owner, condominium association, condominium unit owner, or apartment building, the insurer must give the first-named insured written notice at least 120 days before the effective date of the cancellation or nonrenewal.⁶ Such insureds must receive 10 days' advance notice of cancellation for a failure to pay a premium, or 20 days' notice for a reason other than nonpayment if cancellation occurs within the first 90 days of coverage.⁷ An insurer may not cancel the policy after it has been in effect for 60 days unless there has been a material misstatement, nonpayment, a failure to comply with the policy's underwriting requirements within a specified time, a substantial change in the risk covered by the policy or unless the cancellation is for a given class of insureds.⁸

An authorized insurer may not cancel or nonrenew a residential property insurance policy:

- For a period of 90 days after the property has been repaired, if such property has been damaged as a result of a hurricane or wind loss that is the subject of the declaration of emergency and the filing of an order by the Commissioner of Insurance Regulation.

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

² Section 627.4133(1)(b)1., F.S.

³ Section 627.4133(1)(b)2., F.S.

⁴ Section 627.4133(1)(b), F.S.

⁵ Section 627.4133(1)(c), F.S.

⁶ Section 627.4133(2)(b), F.S.

⁷ Section 627.4133(2)(b)1. and 2., F.S.

⁸ Section 627.4133(2)(b)3., F.S.

- Until the earlier of when property has been repaired or 1 year after the insurer issues the final claim payment, if such property was damaged by a covered peril, but was not damaged as a result of a hurricane or wind loss that is the subject of the declaration of emergency and the filing of an order by the Commissioner of Insurance Regulation.⁹

A structure is deemed repaired when substantially completed and restored to the extent that it is insurable by another authorized insurer.¹⁰ An insurer or agent may cancel or nonrenew such a policy prior to the repair of the dwelling or residential property upon 10 days' notice for nonpayment of premium; or upon 45 days' notice:

- For a material misstatement or fraud related to the claim;
- If the insurer determines that the insured has unreasonably caused a delay in the repair of the dwelling; or
- If the insurer has paid policy limits.¹¹

If the insurer elects to nonrenew a policy covering a property that has been damaged, the insurer must provide at least 90 days' notice to the insured that the insurer intends to nonrenew the policy 90 days after the dwelling or residential property has been repaired.¹² This requirement does not prevent the insurer from canceling or nonrenewing the policy 90 days after the repairs are complete for the same reasons the insurer would otherwise have canceled or nonrenewed the policy but for the limitations.¹³ Any cancellation or nonrenewal subject to these limitations that is set to become effective during a hurricane, the effective date is extended until the end of the duration of the hurricane.¹⁴

Insurers may not cancel or nonrenew a property insurance policy based on the policyholder making a claim based on the result of an act of God, unless the insurer can demonstrate that the insured failed to take action reasonably necessary as requested by the insurer to prevent recurrence of damage to the insured property.¹⁵

III. Effect of Proposed Changes:

The bill amends ss. 626.9201 and 627.4133, F.S., to provide that an authorized lines insurer or surplus lines insurer may not cancel or nonrenew, during a specified time, a property insurance policy covering a personal residential property or commercial residential property located in this state when such property has been damaged as a result of hurricane or wind loss. The hurricane or wind loss event must have been the subject of the declaration of emergency pursuant to s. 252.36, F.S., and the filing of an order by the Commissioner of Insurance Regulation. The specified time within which the insurer may not cancel or nonrenewal is:

- In general, not before 90 days after the dwelling or residential property has been repaired.
- If damaged by flood and flood is not a covered peril, not before the earlier of the time the property is repaired or 18 months after the date of loss.

⁹ Section 627.4133(2)(e)1., F.S.

¹⁰ Section 627.4133(2)(e)5.a., F.S.

¹¹ Section 627.4133(2)(e)2., F.S.

¹² Section 627.4133(2)(e)3., F.S.

¹³ *Id.*

¹⁴ Section 627.4133(2)(f), F.S.

¹⁵ Section 627.4133(3), F.S.

- Notwithstanding the above, the insurer may cancel or nonrenew upon 10 days' notice for nonpayment of premium due, or 45 days' notice for cause.

The 45 days' notice for cause applies:

- To a material misrepresentation;
- If the property owner unreasonably causes delay in the repairs; or
- If the insurer has paid the policy limits on a personal residential policy or has paid the policy limits for a loss to each insured structure damaged on a commercial residential policy.

Additionally, if the insurer elects to nonrenew a policy covering a personal residential property or commercial residential property that has been damaged, the insurer must provide at least 90 days' notice to the insured that the insurer intends to nonrenew the policy. The nonrenewal may not go into effect until at least 90 days after the property has been repaired.

The bill grants rulemaking authority to the Financial Services Commission necessary to implement these provisions and gives the Commissioner of Insurance Regulation authority to issue orders necessary to implement the provisions.

The bill provides that a structure is deemed to be repaired when one of the following have inspected and certified or attested to completion of the repairs:

- A licensed home inspector;¹⁶
- A certified building code inspector;¹⁷
- A licensed general, building, or residential contractor;¹⁸
- A licensed professional engineer;¹⁹ or
- A licensed professional architect.²⁰

If an insurance policy is extended or renewed by operation of these provisions, the policy terms must contain similar policy terms as the policy being extended or renewed. However, this does not impact other law on the premium rates that may be charged upon renewal, meaning that the renewal rate will be the rate authorized by the OIR.

The bill provides that if flood damage is not communicated to the insurer and to the agent of the insurer prior to the expiration of the policy, that flood damage is presumed nonexistent and may not be construed to alter any terms of the policy, create a separate cause of action, or create any duty on the part of the insurer or an agent of the insurer.

Finally, the bill provides the following regarding interpretation of its changes:

- Should there be a conflict, the general statute of limitations at s. 95.11, F.S., controls.
- Should there be a conflict, the requirements regarding notice of a property insurance claim at s. 627.70132, F.S., controls.

¹⁶ Section 468.8314, F.S.

¹⁷ Section 468.607, F.S.

¹⁸ Section 489.111, F.S.

¹⁹ Section 471.015, F.S.

²⁰ Section 481.213, F.S.

- These changes do not revise or modify any emergency order issued by OIR prior to the effective date of the bill, July 1, 2024.²¹

The bill provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill should benefit residential property owners affected by hurricanes or windstorm damage by assuring they can maintain insurance coverage while having property damage repaired. Insurers will be affected by having to extend certain policies.

C. Government Sector Impact:

The bill does not appear to have a significant fiscal impact on state or local government. The bill gives rulemaking authority to the Financial Services Commission. The Commission may incur some costs if it does adopt any rules pursuant to this authority.

²¹ For instance, after Hurricane Idalia struck the Gulf Coast in 2023, affecting 33 counties, the OIR issued an emergency order limiting cancellation or nonrenewal of property insurance policies. https://floir.com/docs-sf/default-source/orders/property-and-casualty/2023/emergency-order-for-hurricane-idalia-315284-23-eo.pdf?sfvrsn=99ec3872_2. A similar order was entered regarding Hurricane Ian in 2022. https://www.floir.com/docs-sf/default-source/floir-documents/hurricane-ian-emergency-order-with-all-exhibits-09282022-filed.pdf?sfvrsn=fb033799_2.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 626.9201 and 627.4133.

IX. Additional Information:

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

CS by Judiciary on February 5, 2024:

The amendment limited the bill to residential property and added that a property is considered repaired when inspected and certified or attested as completed by one of 5 types of building professionals. The amendment also changed the time in which nonrenewal unrelated to nonpayment or cause is prohibited from 12 months to 18 months from the date of loss.

- B. **Amendments:**

None.