

HB 1087

2011

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

25
26 Be It Enacted by the Legislature of the State of Florida:
27

28 Section 1. Paragraphs (a) and (b) of subsection (1) and
 29 paragraphs (a) and (b) of subsection (2) of section 627.4133,
 30 Florida Statutes, are amended to read:

31 627.4133 Notice of cancellation, nonrenewal, or renewal
 32 premium.—

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

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

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

55 1. When cancellation is for nonpayment of premium, at

HB 1087

2011

56 | least 10 days' written notice of cancellation accompanied by the
57 | reason therefor shall be given. As used in this subparagraph,
58 | the term "nonpayment of premium" means failure of the named
59 | insured to discharge when due any of her or his obligations in
60 | connection with the payment of premiums on a policy or any
61 | installment of such premium, whether the premium is payable
62 | directly to the insurer or its agent or indirectly under any
63 | premium finance plan or extension of credit, or failure to
64 | maintain membership in an organization if such membership is a
65 | condition precedent to insurance coverage. "Nonpayment of
66 | premium" also means the failure of a financial institution to
67 | honor an insurance applicant's check after delivery to a
68 | licensed agent for payment of a premium, even if the agent has
69 | previously delivered or transferred the premium to the insurer.
70 | If a dishonored check represents the initial premium payment,
71 | the contract and all contractual obligations shall be void ab
72 | initio unless the nonpayment is cured within the earlier of 5
73 | days after actual notice by certified mail is received by the
74 | applicant or 15 days after notice is sent to the applicant by
75 | certified mail or registered mail, and if the contract is void,
76 | any premium received by the insurer from a third party shall be
77 | refunded to that party in full; and

78 | 2. When such cancellation or termination occurs during the
79 | first 90 days during which the insurance is in force and the
80 | insurance is canceled or terminated for reasons other than
81 | nonpayment of premium, at least 20 days' written notice of
82 | cancellation or termination accompanied by the reason therefor
83 | shall be given except where there has been a material

84 misstatement or misrepresentation or failure to comply with the
 85 underwriting requirements established by the insurer.

86
 87 After the policy has been in effect for 90 days, no such policy
 88 shall be canceled by the insurer except when there has been a
 89 material misstatement, a nonpayment of premium, a failure to
 90 comply with underwriting requirements established by the insurer
 91 within 90 days of the date of effectuation of coverage, or a
 92 substantial change in the risk covered by the policy or when the
 93 cancellation is for all insureds under such policies for a given
 94 class of insureds. This subsection does not apply to
 95 individually rated risks having a policy term of less than 90
 96 days.

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

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

105 (b) The insurer shall give the first-named ~~named~~ insured
 106 written notice of nonrenewal, cancellation, or termination at
 107 least 100 days prior to the effective date of the nonrenewal,
 108 cancellation, or termination. However, the insurer shall give at
 109 least 100 days' written notice, or written notice by June 1,
 110 whichever is earlier, for any nonrenewal, cancellation, or
 111 termination that would be effective between June 1 and November

HB 1087

2011

112 30. The notice must include the reason or reasons for the
113 nonrenewal, cancellation, or termination, except that:

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

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

HB 1087

2011

140 applicant or 15 days after notice is sent to the applicant by
141 certified mail or registered mail, and if the contract is void,
142 any premium received by the insurer from a third party shall be
143 refunded to that party in full.

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

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

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

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

166

167 After the policy has been in effect for 90 days, the policy

HB 1087

2011

168 shall not be canceled by the insurer except when there has been
 169 a material misstatement, a nonpayment of premium, a failure to
 170 comply with underwriting requirements established by the insurer
 171 within 90 days of the date of effectuation of coverage, or a
 172 substantial change in the risk covered by the policy or when the
 173 cancellation is for all insureds under such policies for a given
 174 class of insureds. This paragraph does not apply to individually
 175 rated risks having a policy term of less than 90 days.

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

178 627.7277 Notice of renewal premium.—

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

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

185 627.728 Cancellations; nonrenewals.—

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

HB 1087

2011

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

202 This subsection does not apply:

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

206
 207 Notwithstanding the failure of an insurer to comply with this
 208 subsection, the policy shall terminate on the effective date of
 209 any other automobile liability insurance policy procured by the
 210 insured with respect to any automobile designated in both
 211 policies. Unless a written explanation for refusal to renew
 212 accompanies the notice of intention not to renew, the policy
 213 shall remain in full force and effect.

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

221 (5) United States postal proof of mailing or certified or
 222 registered mailing of notice of cancellation, of intention not
 223 to renew, or of reasons for cancellation, or of the intention of

HB 1087

2011

224 the insurer to issue a policy by an insurer under the same
225 ownership or management, to the first-named ~~named~~ insured at the
226 address shown in the policy shall be sufficient proof of notice.

227 (6) When a policy is canceled, other than for nonpayment
228 of premium, or in the event of failure to renew a policy to
229 which subsection (4) applies, the insurer shall notify the
230 first-named ~~named~~ insured of her or his possible eligibility for
231 insurance through the Automobile Joint Underwriting Association.
232 Such notice shall accompany or be included in the notice of
233 cancellation or the notice of intent not to renew and shall
234 state that such notice of availability of the Automobile Joint
235 Underwriting Association is given pursuant to this section.

236 Section 4. Section 627.7281, Florida Statutes, is amended
237 to read:

238 627.7281 Cancellation notice.—An insurer issuing a policy
239 of motor vehicle insurance not covered under the cancellation
240 provisions of s. 627.728 shall give the first-named ~~named~~
241 insured notice of cancellation at least 45 days prior to the
242 effective date of cancellation, except that, when cancellation
243 is for nonpayment of premium, at least 10 days' notice of
244 cancellation accompanied by the reason therefor shall be given.
245 As used in this section, "policy" does not include a binder as
246 defined in s. 627.420 unless the duration of the binder period
247 exceeds 60 days.

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