

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1087 Persons Designated To Receive Insurer Notifications

**SPONSOR(S):** Holder

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1252

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	12 Y, 1 N	Philpot	Cooper
2) Economic Affairs Committee			

### SUMMARY ANALYSIS

Current law requires insurers to provide certain policy notices to each “named insured” covered under a policy. Notices for renewal premium, nonrenewal, cancellation, or termination must be delivered to each “named insured” in policies that provide workers’ compensation and employer’s liability, property, casualty, homeowner’s, mobile home owner’s, farmowner’s, condominium association, condominium unit owner’s, and apartment building insurance. Additional notices for motor vehicle insurance must also be delivered to the “named insured,” including advance notice of intention not to renew, advance notice of intention to transfer, and notice of eligibility for insurance through the Automobile Joint Underwriting Association in the event of cancellation or nonrenewal.

The bill revises the person identified by statute as the designated recipient for these required notices. Under the lines of insurance above, the bill changes the designated recipient of notice from the “named insured,” including all persons named on a policy, to the “first named insured,” typically the policy holder appointed as the primary contact for administrative matters on the policy.

The bill does not appear to have a fiscal impact on state or local government. The bill should provide cost savings to the private sector.

The bill takes effect July 1, 2011.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Introduction

Chapter 627, Florida Statutes, specifies requirements for notification to a policy holder, or the “named insured,” regarding renewal premium,<sup>1</sup> nonrenewal,<sup>2</sup> cancellation<sup>3</sup> or termination under particular lines of personal and commercial insurance, including workers’ compensation and employer’s liability, property, casualty, homeowner’s, mobile home owner’s, farmowner’s, condominium association, condominium unit owner’s, and apartment building insurance. Additionally, specific statutory provisions for motor vehicle insurance require notice to the “named insured” regarding: intent not to renew;<sup>4</sup> intent to transfer a policy;<sup>5</sup> and eligibility for insurance through the Automobile Joint Underwriting Association in the event of cancellation or nonrenewal.<sup>6</sup>

The party designated to receive these notices under current law is the “named insured,” the persons or entities listed on the policy declaration page. For personal property or motor vehicle coverage, “named insured” may include one or more individuals. In commercial coverage, particularly in the context of a partnership or corporation, the “named insured(s)” of a policy may often include persons or entities related by common ownership or common enterprise.

A “first named insured” is generally the first named insured included in the policy declaration, the person who assumes the legal authority to act on the policy with regard to cancellation, policy changes, reporting losses, and other administrative functions. Generally, in a policy that covers more than one “named insured,” the “first named insured” is designated by the policy holder(s) on an application at the time the policy is adopted.

For example, a company operating multiple retail locations may purchase a worker’s compensation policy identifying the company headquarters as the “first named insured” and each retail store location as a “named insured.”<sup>7</sup> Even if the company’s headquarters assumes responsibility for all premium payments, policy changes and other administrative matters as the designated “first named insured,” current law requires insurers to deliver certain policy notices to each individual store location listed as a “named insured.”

Language for insurance policy provisions is developed and submitted by insurers for approval by the Office of Insurance Regulation (OIR). Many insurance companies, especially domestic insurers, rely on ratemaking organizations like the Insurance Services Office (ISO)<sup>8</sup> that have drafted and secured approval for standard form language. In effect, ISO forms generally reflect industry practice. Among the form language provisions drafted by ISO and approved by OIR, requirements for notice to policy holders are included.

Previously, common industry practice for delivery of cancellation and nonrenewal notices included only the “first named insured,” reflected in part by OIR’s approval of form language<sup>9</sup> submitted by the ISO.

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<sup>1</sup> FLA. STAT. § 627.4133(1)(a); FLA. STAT. § 627.4133(2)(a); FLA. STAT. § 627.7277(2).

<sup>2</sup> FLA. STAT. § 627.4133(1)(a); FLA. STAT. § 627.4133(2)(b).

<sup>3</sup> FLA. STAT. § 627.4133(1)(b); FLA. STAT. § 627.4133(2)(b); FLA. STAT. § 627.7278(3)(a); FLA. STAT. § 627.7281.

<sup>4</sup> FLA. STAT. § 627.728(4)(a).

<sup>5</sup> FLA. STAT. § 627.728(4)(d).

<sup>6</sup> FLA. STAT. § 627.728(6).

<sup>7</sup> Rule 3(D) of the National Council on Compensation Insurance’s Experience Rating Plan Manual (2003) requires that in order to combine two or more entities under one policy, the same person, group of persons or corporation must own more than 50% of each entity.

<sup>8</sup> For more information, visit [www.iso.com](http://www.iso.com).

<sup>9</sup> Form language in the ISO forms cited herein is not applicable to all forms of insurance implicated by changes to this bill. Rather, these forms are indicative of the current interpretation of statutory requirements for notice to the “named insured” that is included in other ISO forms approved by OIR for additional lines of insurance. *See also* Form IL 02 55 01 10 (amending Form IL 02 55 09 08).

In Form CG 02 20 12 07, effective December 2007 and approved by OIR, common policy conditions provided that notices of cancellation and nonrenewal shall be mailed or delivered to the “first Named Insured.”<sup>10</sup>

Subsequently, ISO has instituted Form CG 02 20 04 11, effective April 2011 and approved by OIR, providing common policy conditions for cancellation and nonrenewal consistent with current statutes requiring delivery of notice to the “Named Insured(s).”<sup>11</sup> Language in Form CG 02 20 04 11 is consistent with an effort by OIR to conform review and approval of standard policy language regarding policyholder notice to the current statutory requirement of notice to the “named insured.” Under current law and OIR interpretations, when notice is delivered to the “named insureds” on a policy, multiple copies of each notice must be delivered, even if all “named insureds” are located at the same address.

Industry representatives have indicated that insurance policies usually incorporate lending institutions as loss payees by endorsement rather than as a “named insured.”<sup>12</sup> As a loss payee under a policy endorsement, the lending institution qualifies for notice from the insurer notwithstanding the provisions for notices to “named insured(s).”<sup>13</sup>

### Effect of Proposed Changes

The bill adopts the previous industry practice of delivering certain required policy notices to only the party with administrative authority on the policy, the “first named insured.” In effect, the bill requires the following policy notices to be delivered to only the “first named insured” rather than all “named insured(s).”<sup>14</sup>

- notices of nonrenewal or renewal premium for worker’s compensation, employer’s liability, property, and casualty insurance;
- notices of cancellation or termination for property and casualty insurance;
- notices of renewal premium, nonrenewal, cancellation, or termination for any personal lines or commercial residential property insurance policy, including, but not limited to, homeowner’s, mobile home owner’s, farmowner’s, condominium association, condominium unit owner’s, and apartment building; and
- notices of renewal premium, cancellation, intent not to renew, intent to transfer, and eligibility for insurance through the Automobile Joint Underwriting Association in policies providing motor vehicle insurance.

For example, in the context of a worker’s compensation policy, this bill limits notice of renewal premium or nonrenewal to the “first named insured,”<sup>15</sup> usually the administrative office or primary center of operations for a business that has included multiple “named insured” entities on a policy.

The bill takes effect July 1, 2011.

### B. SECTION DIRECTORY:

Section 1 amends s. 627.4133(1), F.S., relating to the required notice an insurer must provide to policy holders regarding nonrenewal, renewal premium, cancellation, or termination in policies providing coverage for workers’ compensation and employer’s liability, property, and casualty insurance.

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<sup>10</sup> Insurance Services Office, Form CG 02 20 12 07: Florida Changes – Cancellation and Nonrenewal (December 2007).

<sup>11</sup> Insurance Services Office, Form CG 02 20 04 11: Florida Changes – Cancellation and Nonrenewal (April 2011).

<sup>12</sup> See, e.g., Insurance Services Office, Form CP 12 18 06 95: Loss Payable Provisions (June 1995); additional industry information provided to Subcommittee staff, on file with Insurance and Banking Subcommittee.

<sup>13</sup> *Id.*

<sup>14</sup> Provisions relating to lines of property and casualty insurance through surplus lines carriers are not impacted by this bill. In effect, notice of cancellation and nonrenewal of property or casualty policies through surplus lines carriers will continue to be required to be delivered to the “named insured(s)” as provided in s. 626.9201, F.S.

<sup>15</sup> Cancellation notices for worker’s compensation insurance policies are not impacted by this bill. Requirements for cancellation notices in a worker’s compensation policy are provided in s. 440.42(3), F.S.

Section 1 also amends s. 627.4133(2), F.S., relating to the required notice an insurer must provide to policy holders regarding renewal premium, nonrenewal, cancellation, or termination in policies providing coverage for personal lines or commercial residential property, including but not limited to, homeowner's, mobile home owner's, farmowner's, condominium association, condominium unit owner's, apartment building, or other policy covering a residential structure or its contents.

Section 2 amends s. 627.7277, F.S., relating to the required notice an insurer must deliver to a policy holder regarding renewal premium for motor vehicle and casualty insurance contracts.

Section 3 amends s 627.728, F.S., relating to required notices surrounding cancellation and nonrenewal of motor vehicle insurance contracts, including notice of cancellation, advance notice of intention not to renew, advance notice of intention to transfer, and notice of eligibility for insurance through the Automobile Joint Underwriting Association in the event of cancellation or nonrenewal.

Section 4 amends s. 627.7281, F.S., relating to the required notice an insurer must provide to policy holders regarding cancellation of motor vehicle insurance not covered under cancellation provisions of s. 627.728, F.S.

Section 5 provides that the bill becomes effective on July 1, 2011.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Insurance industry representatives suggest that limiting notice requirements to include only the "first named insured" will reduce significant administrative costs associated with sending multiple certified mail notices to all named insureds typically located at the same address.<sup>16</sup>

### **D. FISCAL COMMENTS:**

None.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

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<sup>16</sup> Industry information provided to Subcommittee staff, on file with Insurance and Banking Subcommittee.

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

Insurance industry representatives have identified other states that have adopted statutory provisions requiring notice of cancellation and nonrenewal to be delivered to the "first named insured," including but not limited to New York and Louisiana.<sup>17</sup>

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

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<sup>17</sup> See N.Y. INSURANCE LAW § 3426 (McKinney 2011); LA. REV. STAT. ANN. § 22:1267 (2011).