

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.