

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 Commerce and Tourism

BILL: CS/SB 812

INTRODUCER: Banking and Insurance Committee and Senators Perry and Gibson

SUBJECT: Insurance Policy Transfers

DATE: March 24, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Billmeier</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Little</u>	<u>McKay</u>	<u>CM</u>	<u>Favorable</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 812 allows an insurer to transfer a personal lines residential or a commercial residential policy to another authorized insurer under certain circumstances. Under current law, an insurer is not authorized to transfer a policy providing residential property insurance coverage, unless the policy falls within the exception for specific policies relating to farm coverage. Instead, these insurers are required to cancel, nonrenew, or terminate the policy.

The bill authorizes an insurer to transfer a policy providing personal lines residential or commercial residential property insurance coverage to an authorized insurer owned by the same holding company or a member in the same group as the transferring insurer, if the following conditions are met:

- The insurer being transferred the policy is admitted to do business in Florida and other states and is writing residential property insurance in such states;
- The policy is not being converted to a surplus lines policy;
- The transfer results in substantially similar coverage;
- The insurer being transferred the policy provides the policyholder with at least 60 days advance notice of the change in policy terms, the policy transfer, the renewal premium, and the new insurer's financial rating;
- The policyholder of the policy being transferred is selected on a nondiscriminatory basis;
- The Office of Insurance Regulation determines the insurer being transferred the policy has the same or better financial strength as the transferring insurer; and
- The Office of Insurance Regulation approves the transfer.

II. Present Situation:

Chapter 627 of the Florida Statutes sets forth the Florida Insurance Code, which governs insurance practices in the state. Insurance policies that fall under the purview of the law include personal auto, worker's compensation, employer's liability, personal liability, and residential. Pursuant to s. 627.1025(1), F.S., residential coverage includes both personal lines residential coverage¹ and commercial lines residential coverage.²

Notice of Cancellation, Nonrenewal, or Renewal of Insurance Policies

The requirements for an insurer to provide notice of cancellation, nonrenewal, or renewal premium 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.³

Insurers writing personal lines residential or commercial lines residential property insurance policies are generally subject to the following requirements:

- An insurer must give written notice of cancellation, nonrenewal, or termination at least 120 days prior to the effective date of the cancellation, nonrenewal, or termination and the notice is required to include the reason for nonrenewal, cancellation, or termination;⁴ and
- An insurer must give written notice of renewal premium at least 45 days prior to the renewal premium⁵ and the notice of renewal premium must specify certain information, including the dollar amount of any premium increase that is due to an approved rate increase and the total dollar amount that is due to coverage changes.⁶

Notice of Change in Policy Terms

Section 627.43141, F.S., requires an insurer to provide the policyholder and the policyholder's insurance agent with notification, entitled "Notice of Change in Policy Terms," when a renewal policy contains a change in policy terms.⁷ The insurer may enclose the notice of change of policy with the written notice of renewal premium required under ss. 627.4133 and 627.728, F.S.,⁸ or send the notification separately within the notice of nonrenewal timeframe for that line of insurance, as required under the Florida Insurance Code. The changes in policy terms are considered accepted by the policyholder when the insurer receives the premium payment for the renewal policy.⁹

¹ Personal lines residential coverage consists of the type of coverage provided by homeowner, mobile home owner, dwelling, tenant condominium unit owner, and cooperative unit owner. *See* s. 627.4025(1), F.S.

² Commercial lines residential coverage consists of the type of coverage provided by condominium association, cooperative association, apartment building, and similar policies, including those that cover the common elements of a homeowners association. *See* s. 627.4025(1), F.S.

³ An insurer writing most property and casualty policies are required to provide the policyholder with at least 45-day advance notification of cancellation or nonrenewal. *See* s. 627.4133(2), F.S.

⁴ Section 627.4133(2)(b), F.S.

⁵ Section 627.4133(2)(a), F.S.

⁶ Section 627.4133(7), F.S.

⁷ A change in policy terms refers to any modification, addition, or deletion of any term, coverage, duty, or condition from the previous policy.

⁸ Section 627.728, F.S., relates to cancellations and nonrenewal of motor vehicle insurance policies.

⁹ Section 627.43141, F.S.

Transfer of Insurance Policies

Upon the expiration of a commercial lines policy term, insurers writing commercial lines insurance policies may transfer a commercial lines policy to another Florida licensed insurance company if:

- The insurer being transferred the policy is owned by the same holding company¹⁰ as the transferring insurer; or
- The insurer being transferred the policy is a member of the same insurance group as the transferring insurer.

The transfer of a commercial lines policy is considered a renewal of the policy, rather than a cancellation, nonrenewal, or termination. In order to transfer a policy, the transferring insurer must provide the policyholder with a written notice of the intent to transfer at least 45 days prior to the effective date of the transfer. The notice of intent to transfer may be provided with the notice of renewal premium and is required to include the financial rating of the insurer being transferred the policy.¹¹

Under current law, insurers are not authorized to transfer policies providing residential property insurance coverage, unless the policy falls within the farm coverage exception.¹² Instead, the insurer is required to cancel, nonrenew, or terminate the policy in accordance with the notice requirements set forth in s. 627.4133, F.S.

III. Effect of Proposed Changes:

The bill allows an insurer to transfer a policy providing personal lines residential or commercial residential property insurance coverage to an authorized insurer owned by the same holding company or a member in the same group as the transferring insurer, if the following conditions are met:

- The insurer being transferred the policy must:
 - be admitted to do business in Florida and other states;
 - be writing residential property insurance in such states;
 - not convert the policy to a surplus lines policy; and
 - be determined by the Office of Insurance Regulation (OIR) to have the same or better financial strength as the transferring insurer;
- The transfer must result in substantially similar coverage;
- The insurer being transferred the policy provides a notice of change in policy terms and additional information;
- The policyholder of the policy being transferred must have been selected on a nondiscriminatory basis; and
- The transfer must be approved by the OIR.

¹⁰ A holding company is a company that holds a controlling share of stock in one or more other companies. Some Florida insurance companies are owned by holding companies and some holding companies own more than one insurance company.

¹¹ Section 627.4133(8), F.S.

¹² The exception allows farmowners insurance and commercial general liability policies providing farm coverage or commercial property policies providing farm coverage to be transferred as commercial lines policies. *See* s. 627.4133(8), F.S.

The bill requires an insurer being transferred a personal lines residential or commercial residential property insurance policy to provide the policyholder with a notice of change in policy terms at least 60 days before the effective date of the transfer. The notice of change in policy terms is required to be in compliance with s. 627.43141, F.S., and must also provide the policyholder with notification of the policy transfer, the financial rating of the insurer being transferred the policy, and the notice of renewal premium.

The bill explicitly provides that the notice and information requirements in the bill, imposed on an insurer being transferred the policy for personal lines residential or commercial residential property insurance coverage, may replace any other notice required by s. 627.4133(8), F.S. The only other notice requirements within the subsection require the transferring insurer to provide notification of intent to transfer at least 45 days before the effective date of the transfer. Therefore, it appears as though the bill relieves the insurer opting to transfer a policy for personal lines residential or commercial residential property insurance coverage from having to provide notice of intent to transfer. Instead, the bill requires the new insurer to provide the policyholder notification at least 60 days prior to the effective date of the transfer.

The bill streamlines the notification process for the transfer of a policy providing personal lines residential or commercial residential property insurance coverage. By requiring only the insurer being transferred the policy to provide notification of the policy transfer, renewal premium, and the financial rating with the notice of change in policy terms, the bill ensures the policyholder will receive all of the information relating to the policy transfer at one time.

The bill takes effect July 1, 2017.

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 authorized insurers, rather than requiring the policies to be nonrenewed, cancelled, or terminated may allow insurers to more easily manage their book of business.

C. Government Sector Impact:

The Office of Insurance Regulation does not anticipate a fiscal impact.¹³

VI. Technical Deficiencies:

None.

VII. Related Issues:

Lines 17 and 18 refer to “commercial residential” or “commercial lines” policies. The OIR indicated the commercial residential policies fall within the category of commercial lines policies, so the inclusion of both terms may be redundant.¹⁴

Lines 27-30 of the bill do not clearly identify which policies able to be transferred and which policies must meet the established criteria. The bill allows the transfer of certain insurance policies and requires the insurer to provide notice of the intent to transfer, but then states that the subsection does not apply to certain residential policies, except for specified farm-related policies, unless certain conditions are satisfied. As worded, it may be unclear whether the conditions set forth in lines 31-51 apply to farm-related insurance policies, to policies providing residential property insurance coverage, or to both types of policies.

Lines 43-46 of the bill provide that the notice and information requirements imposed under the paragraph may replace any other notice required by the subsection. The only other notification requirements in subsection (8) are those on lines 22-26, relating to the notice of intent to transfer. If the bill also intends that the notice and information requirements in the paragraph may replace the cancellation, nonrenewal, and termination notification requirements under s. 627.4133(2)(b), F.S., the bill might be more clear if lines 43-46 provided that the required notice and information within the paragraph may replace any other notice required by subsection (8) *and* the notification requirements under s. 627.4133(2)(b), F.S.

Line 49 of the bill requires the policy transfer to be approved by the OIR. The OIR has identified a lack of guidance in the bill as to the method the OIR will use to approve the policy transfer, including how the request for approval will be submitted and the criteria the OIR is expected to use to evaluate approval requests.¹⁵

VIII. Statutes Affected:

This bill substantially amends section 627.4133 of the Florida Statutes.

¹³ Office of Insurance Regulation, *Analysis of SB 812* (March 6, 2017).

¹⁴ *Id.* at 5.

¹⁵ *Id.*

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 Banking and Insurance on March 14, 2017:

The CS provides that a transferred policy cannot be converted to a surplus lines policy and that the policyholder of a policy being transferred must be selected on a nondiscriminatory basis.

The CS provides that the insurer to which the policy is being transferred must provide a notice of change in policy terms to the policyholder in compliance with s. 627.43141, F.S. The notice must also include notice of the policy transfer and the insurer's financial rating. The notice must be provided with the notice of renewal premium. The notice and information provided must be provided to the insured at least 60 days before the effective date of the transfer.

- B. **Amendments:**

None.